SAMPLE COMMENT LETTER ON PROPOSED RULEMAKING - INADMISSIBILITY ON PUBLIC CHARGE GROUNDS

Submit via Federal eRulemaking Portal www.regulations.gov

Instructions for using template to draft customized comments
Attached is a template to help you draft your own comments in opposition to the public charge notice of proposed rulemaking. You may receive several template comments from different organizations, and we encourage you to use the template or template sections of your choice and to mix and match.

Comments should be submitted online at https://www.regulations.gov/document?D=USCIS-2010-0012-0001. Click on “comment now” and either enter your comment in the text box (must be fewer than 5000 characters) or upload your comments as a PDF. As you are drafting your comment, here are some important tips to keep in mind.

Write comments in your own words. Agency staff must code and organize all comments, and the process is very different if they have to pause and consider what’s similar and what’s different in each comment, as opposed to just counting the number of commenters saying the same thing. It’s fine to work from a sample comment, but you should modify it to reflect your own thoughts and experiences so that it counts as a unique comment. Directions in YELLOW indicate sections that you should customize as you create your comment.

Here are a few recommended approaches.

- If you are an expert on a program, please detail how that program improves people’s lives. For example: I oppose the proposed public charge rule that would force many survivors of domestic violence and sexual assault and their families to disenroll from housing and food assistance programs necessary to escape and recover from trauma and instead keep them trapped in abusive situations. (add data and examples). Please explain your expertise, and cite relevant research.
- If you work directly with immigrants, please describe why they usually come to the country; how they use government benefits, what it means for the well-being of them and their children; and how they contribute to their families and community.
- If you are a concerned individual that thinks this is wrong, explain what you think our country’s values should be and why this change goes against it. You may want to talk about the realities of the lack of employment opportunities for survivors subjected to financial abuse, and explain why those survivors shouldn’t be penalized based on the inability to demonstrate current employment due to abusive partners sabotaging employment, lack of access to private or employer sponsored insurance, or lack of affordable housing available to survivors.
If you have ever participated in a basic needs program like SNAP, Medicaid, or housing assistance, you can also talk about the role that access to benefits has played in your own life. For example: *I am a domestic violence survivor and the housing assistance that I received helped me to leave an abusive relationship, find employment, provide a safe environment for my children, and participate in my community. I received essential housing vouchers that allowed me and my family to avoid falling into poverty and homelessness. Without access to these housing vouchers, I would not have been able to leave the violent environment, provide for my children’s basic needs, and gain financial independence. We must ensure that all survivors of domestic violence and sexual assault have access to safe housing, regardless of where they or their parents were born.*

If you have family members that were immigrants and survivors, describe their experience, especially if you can point to their contributions to America. You may also want to explain how a person’s situation improves over time (learns English, earnings increase, grows up, completes education or training, buys a home or moves into a better neighborhood, creates jobs, etc.).

*Click here* to see a great example of commenting guidance for community members.

Submit separate comments, rather than signing onto comments from someone else. Agencies need to count how many comments they receive. If five people or organizations sign onto one comment letter, that counts as one comment. If they each send in their own comments, that counts as five comments.

Don’t suggest corrective language. Our ultimate goal is to stop this rule from moving forward. Therefore, while it is important to raise concerns, we do not recommend suggesting ways that the agency can “fix” the proposed language.

Don’t discuss programs that aren’t specifically mentioned in the NPRM. Highlighting programs that are not specifically mentioned could give the agency cover to include those programs in the final rule, even though they aren’t in the NPRM.

Attach research and supporting documents. If you cite to research and supporting documents in your comments, we also recommend including them as an attachment so that they are clearly part of the administrative record. Another option is to include a live link to cited sources. If you include links, specifically request that the agency read the material at these links.

If you have credibility in an issue area, say so. If you are a subject matter expert and want to offer comments on your area of expertise, explain why you are uniquely qualified to offer this perspective. Feel free to explain your educational and professional background, or attach a copy of your CV to your comments.

Provide translations of non-English comments. The NPRM requests that all comments be submitted in English. While we do not in any way endorse this restriction, we want to ensure that comments from non-English speaking individuals can be counted. Therefore, we
recommend that for non-English comments both the original and a translation should be submitted together, along with a statement from the translator which verifies the accuracy of the translation. Something like: *I, [translator’s name], hereby declare that I am fluent in [language] and English and that this translation is a true, accurate and complete version of the original text to the best of my knowledge.*

**When possible, avoid completely anonymous comments.** If an individual does not want to disclose their name or contact information, we recommend having a friend or representative submit the comment on their behalf rather than submitting the comment anonymously. A health worker or attorney could submit comments on behalf of multiple clients, and should acknowledge their relationship to that person in the comment to provide context and legitimacy.

**When you submit your comments, please also share them with the Protecting Immigrant Families Campaign.** After you hit send on your comments, please take a minute to file them with the PIF Campaign here. There is often a lag time between when comments are submitted to the federal government and when they are available publicly. The PIF Campaign is developing a plan to review comments submitted by allies and extract the most helpful data, stories, arguments, and other messages that will help with our advocacy work and possibly litigation. Please file the comments with your organization’s name. For example, “The National Network to End Domestic Violence Final Comments on Public Charge NPRM.” And please suggest that your partners and members do the same.

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**Letter Template**

*[DATE]*

Submitted via www.regulations.gov

U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW  
Washington, D.C. 20529-2140

Re: DHS Docket No. USCIS-2010-0012 - Comments in Response to Proposed Rulemaking Inadmissibility on Public Charge Grounds

Dear Sir/Madam:

On behalf of [NAME of coalition/organization/agency], we are submitting comments in response to the Department of Homeland Security’s (DHS) Notice of Proposed Rulemaking Inadmissibility on Public Charge Grounds published in the Federal Register on October 10, 2018 to express our strong opposition to the changes regarding “public charge.” [NAME of coalition/organization/agency] has grave concerns regarding the immense harm that the
The public charge rule represents an extreme change in current policy and will harm victims of domestic violence and sexual assault and their ability to obtain and maintain safety as a result of abuse. While some victims seeking certain survivor-specific forms of immigration status, such as protections under the Violence Against Women Act and U visas, are exempt from the public charge ground of inadmissibility, the exception will not protect large number of victims from the detrimental effects of the public charge rule. There are many victims of domestic violence and sexual assault, along with their family members, who seek status in other immigration categories and who will be harmed as a consequence. Survivors hold all forms of immigration status, from U.S. citizenship to permanent residency to those immigrating through family or employment sponsorship, or as foreign students, temporary workers, or diversity visa applicants.\(^1\) Even in instances where survivors have secure immigration status and the proposed rule does not directly apply to survivors themselves, their family members who may be seeking admission or permanent residence, such as those sponsored by survivors, or those living in their households, will be impacted. The public charge rule will therefore have widespread ramifications in deterring survivors from accessing the services and programs they need to escape and overcome violence. Immigrant families are already withdrawing from assistance programs that support their basic needs due to fear, even though the proposed rule has not taken effect. Not only will the proposed rule, if implemented, impose significant human suffering costs on victims of domestic violence and sexual assault and their families, but will also impose long-term economic costs on our communities due to increased injury and health consequences of unmitigated trauma.

The chilling effect we are witnessing is deeply concerning. Domestic and sexual violence is widespread in our communities – with one in three women and one in six men experiencing some form of sexual violence in a lifetime\(^2\) and more than 12 million men and women

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experiencing rape, physical violence, or stalking by an intimate partner each year in the United
States.3

[INSERT state/local statistics and data relevant to your community.]

Following are several resources where you can find state-specific data:

- https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/
- https://ncadv.org/state-by-state;
  page 65).]
  a. Look at map and select state (check that incident data is available for your state)
  b. Click on “go” next to the dropdown menu that already has “crime” selected
  c. Under “Incident-based (NIBRS) details reported” click on the dropdown menu to
  select “rape”

Due to the prevalence of domestic violence and sexual assault, our communities have provided
for many important protections and programs to ensure all victims’ ability to access safety and
justice and promote healthy communities. The public charge rule should be interpreted to
contribute to the goals of these vital federal and state protections and services that support
victim safety and recovery from trauma, healthy families, and violence prevention.

The proposed public charge rule undermines the gains our communities have made to advance
public safety and jeopardizes domestic violence and sexual assault survivors in the following
ways:

1. Discourages survivors from seeking or utilizing safety net benefits that are crucial to
   survivors’ ability to escape or recover from abuse and trauma.
2. Punishes survivors of domestic violence and sexual assault for the violence they’ve
   experienced.
3. Isolates survivors from their families, which are often essential sources of support when
   escaping and recovering from abuse.

1. The public charge rule will discourage survivors from seeking or utilizing safety net
   benefits that are crucial to survivors’ ability to escape or recover from abuse and trauma.

The proposed rule greatly expands the range of public assistance programs that will now count
against an individual in deciding whether someone is likely to become a public charge, including
crucial programs that victims need to escape abuse and meet basic needs. While domestic
violence and sexual assault occur across economic groups, there are unique challenges and
barriers at the intersection of domestic and sexual violence and financial hardship: abuse can
result in victims falling into poverty. Financial barriers can prevent victims from leaving abusive
relationships. The Centers for Disease Control has concluded that improving financial security

3 Centers for Disease Control and Prevention. (2011). Sexual Violence, Stalking, and Intimate Partner
  Violence Widespread in the US. Available at:
for individuals and families can help reduce and prevent intimate partner violence.\(^4\) Access to economic security programs and other safety net benefits therefore play a pivotal role in a victim’s ability to escape and overcome domestic violence and sexual assault, helping victims afford the basics (such as food, housing, and healthcare) and rebuild their lives after violence.

**Housing**

Housing assistance is a vital resource for survivors, giving them the security they need to leave abuse without having to fear that doing so will result in homelessness, as well as providing a safe environment to begin their recovery. One of the greatest needs identified by survivors is affordable housing. In a single day, domestic violence programs across the United States received but were unable to meet nearly 7,500 requests for housing services.\(^5\) The inability to find and maintain affordable housing puts survivors at extreme risk of homelessness. Between 22 and 57% of all homeless women report that domestic violence was the immediate cause of their homelessness,\(^6\) and victim service providers, advocates, and allies across the United States report that survivors became homeless as a result of sexual violence.\(^7\) Sexual assault survivors may be forced to leave their housing and/or employment as a result of the violence, and become even more at risk for sexual violence as a result.\(^8\) Without housing, sexual assault victims report that other services to address the violence were not likely to be helpful.\(^9\) For many survivors, the decision to leave abuse hinges on the question, “But where would I go?” Housing assistance provides the answer that survivors need, and creates a pathway to safety.

**Supplemental Nutrition Assistance Program (SNAP)**

SNAP helps survivors overcome an immense barrier to escaping and recovering from abuse: food insecurity. Being able to meet basic food and nutritional needs provides a means for survivors to take care of themselves and their children while working to address their trauma

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and take steps toward independence. Service providers report that SNAP is an invaluable program for survivor empowerment and post-trauma healing with 80% of most domestic violence victims and 55% of most sexual assault victims using the program to restore safety and stability in their lives.\textsuperscript{10} Limiting access to SNAP may translate to many domestic and sexual violence survivors and their families going hungry, leading survivors to feel that they have no choice but to return to their abusers.

**Healthcare Assistance**

Access to health care provides a critical lifeline for survivors in order to treat the significant health consequences of abuse including: acute injury, chronic pain, sexually transmitted infections, gastrointestinal problems, diabetes, hypertension, and traumatic brain injury, among others. Data from the Behavioral Risk Factor Surveillance Survey (BRFSS), which is conducted annually and is the largest U.S. nationally representative phone survey about general health behaviors and conditions, highlight the increased risk of chronic conditions such as asthma, arthritis, stroke, and cardiovascular disease in individuals who have ever experienced partner violence.\textsuperscript{11} A study by the Centers for Disease Control and Prevention (CDC) found that more than 550,000 injuries due to IPV require medical attention each year.\textsuperscript{12} Service providers report that Medicaid is valuable to the recovery of survivors as it is a benefit many survivors cannot afford, with 76% of providers reporting that healthcare assistance consistently helps the survivors with whom they work. New CDC data found the lifetime per-victim cost of intimate partner violence was $103,767 for women victims with 59% going to medical costs.\textsuperscript{13} Public funding paid 37% of this total cost. It is clear that Medicaid coverage helps survivors access care: when looking at trauma care alone, Kaiser Family Foundation found that Medicaid increased coverage of individuals with traumatic injuries for acute and post-acute care and protects against unexpected medical bills.\textsuperscript{14} Survivors are also more likely than others to need health, mental and behavioral health services because of increased risk for suicide, depression, anxiety, posttraumatic stress disorder, and substance abuse. Ensuring they can get the care they need, when they need it, can improve their health and well-being for the rest of their lives.

Additionally, of particular interest to survivors, coverage of screening and brief counseling for DV/IPV is a covered women’s preventive health benefit. Maintaining this coverage is extremely important because in addition to treating the health consequences of abuse, the health care setting may be the first place that survivors are asked about abuse and connected with


\textsuperscript{14} Goodman, S., supra, Note 10 at 11
community-based domestic violence services. The proposed rule exacerbates the harmful health impacts of domestic violence and sexual assault. Survivors of domestic violence will likely forego critical health services they need to remain healthy and safe. Rather than seek help from a health care professional or get treatment for related health issues, survivors may instead stay in an abusive situation.

We strongly urge that receipt of Medicaid be excluded from the final rule.

**Children’s Health Insurance Program (CHIP)**

For the same reasons, we recommend that DHS continue to exclude CHIP from consideration in a public charge determination in the final rule.

CHIP is a health insurance program for children in working families who earn too much to be eligible for Medicaid but not enough to buy private insurance. In some states, CHIP covers pregnant women. All states offer CHIP, and CHIP/Medicaid work closely together.

Children covered by CHIP and Medicaid have improved health outcomes, including reductions in avoidable hospitalizations and child deaths. For children who’ve experienced abuse or who are in homes where domestic violence is present, access to CHIP may be a critical link for overcoming trauma and recovering from abuse. CHIP improves health, which translates into educational gains, with potentially positive implications for both individual economic well-being and overall economic productivity.

Today, more than eight million *citizen* children with an immigrant parent have Medicaid/CHIP coverage. If the final rule includes CHIP it will likely result in more survivors foregoing critical health supports for themselves and their children to recover from abuse.

**Cash assistance**

For many survivors, cash assistance, such as Temporary Assistance for Needy Families or state-funded cash benefits, provides the crucial support they need to begin the journey of restabilizing their lives and achieving self-sufficiency. In a 2017 survey of service providers working with victims of violence, nearly 85% of respondents said that TANF is a very critical resource for a significant number of domestic violence and sexual assault victims. Specifically, more than two-thirds of respondents said that most domestic violence victims rely on TANF to help address their basic needs and to establish safety and stability, and 45% of respondents said the same is true of most sexual assault victims. With financial instability posing limited options for escaping or recovering from abuse, access to cash assistance is an important factor in victims’ decision-making about whether and how they can afford to leave a dangerous situation, and in planning how to keep themselves and their children healthy, well, and housed.

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15 Id. At 13
Hindering Access to Economic Supports Undermines Survivor Safety

As this data illustrates, economic resources play a critical role in supporting women’s safety.¹⁷ Not only does the public charge rule undermine federal and state policies to support victims by discouraging them from accessing critical services, the proposed rule exacerbates the harmful impacts of the abuse, possibly by keeping them trapped in abusive situations. Without sufficient resources, victims are either compelled back into an abusive relationship, or face destitution and homelessness.¹⁸

2. The public charge rule punishes survivors of domestic violence and sexual assault for the violence they’ve experienced.

Domestic violence abusers and sexual assault perpetrators cause significant physical, emotional, and often, financial injury to their victims, which increases the likelihood of the public charge ground of inadmissibility being applied. Many abusive partners, in order to dominate or control their partners and their children, will try to prevent or sabotage their partners from attaining economic independence or stability by limiting their access to financial resources, interfering with employment, ruining credit, and more.¹⁹ Victims who might not have previously been considered low income may experience financial abuse; become impoverished due to the abuse; or abuse may have undermined the victim’s ability to work, maintain housing, health, or otherwise obtain financial security.²⁰

The heavily-weighted negative factors described in the proposed rule will disproportionately harm survivors of domestic violence and sexual assault. The proposed rules identify specific circumstances that would weigh “heavily” in a public charge determination.

For example, these following heavily weighted negative factors would potentially harm victims in these ways: *INCLUDE BELOW THE SPECIFIC RELEVANT FACTORS AND HOW THEY APPLY TO SURVIVORS THAT YOU OR YOUR ORGANIZATION HAVE WORKED WITH*

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¹⁷ Eleanor Lyon, *supra*, Note 5 (“Several studies in the past ten to fifteen years have documented the importance of economic resources for battered women’s decision-making”).


1) The applicant for admission is not a full-time student and is authorized to work, but is unable to demonstrate current employment, and has no employment history or no reasonable prospect of future employment.

Survivors whose partners have sabotaged their ability to find or hold employment, restricted their access to bank and other financial accounts, built up debt in their name, or exerted other forms of economic exploitation and control are forced to become dependent on their abusive partners’ incomes. Survivors of domestic violence and sexual assault may also lose their jobs due to intense trauma, reduced productivity, harassment at work by perpetrators, and other reasons stemming from the violence.21

[INSERT specific story or example of how abuse/assault has undermined employment, such as through isolation, or in instances where abuser sabotaged employment]

2) The applicant for admission is receiving public benefits, is currently “certified or approved” to receive public benefits, or has received one or more public benefits within the 36 months immediately preceding applying for a visa, admission, or adjustment of status.

[INSERT specific story or example of how a victim has needed public benefits or health care assistance when preparing to leave abuse or in the aftermath of abuse. This could relate to the survivor’s decision and ability to escape or overcome violence made possible due to:
- Access to housing services such as housing vouchers, rental assistance, or public housing
- You can also find state-specific statistics on housing needs here: https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/.
- Access to cash assistance to meet their and their family’s basic needs
- Access to SNAP to avoid falling into food insecurity and meet basic food needs
- Access to Medicaid to heal from trauma - physical, mental, emotional, etc.
You could also speak to the consequences that the lack of access to public benefits would have had on the survivor (e.g. survivor would have had to return to the abuser).]

3) The applicant for admission has been diagnosed with a medical condition that is likely to require extensive medical treatment or institutionalization or that will interfere with his or her ability to provide for him- or herself, attend school, or work; and does not have, or is unlikely to have private health insurance, or the ability to pay for reasonably foreseeable medical costs.

[INSERT specific story or example of survivor having injury caused by abuse, not having insurance because the survivor left the abuser, etc.]

None of these factors, by itself, is to be dispositive. We therefore highly recommend that the proposed rule include, in considering the totality of the circumstances, the purpose and guidance of the important protections in federal laws like the Violence Against Women Act, the Trafficking Victims Protection Act, the Victims of Crime Act, and other important laws protecting victims from being subjected to the public charge test. Given that admission to the United States

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or adjustment of status can help victims access employment and increase their ability to escape the violence or overcome the trauma they’ve suffered, in applying the public charge rule, DHS should consider the supportive and protective effects of stable immigration status to survivors.

3. The public charge rule will isolate survivors from their families and vital systems of support.

Family members serve as one of the main sources of support for survivors, and the presence of a strong support system can be vital to a survivor’s ability to disclose, escape, and heal from the trauma of domestic violence, sexual assault, and other gender-based abuses. Survivors stress that having family in their lives is essential to their recovery, providing survivors with the affirmation, encouragement, stability, and resources they need to grow and move forward. The public charge rule threatens to isolate victims from their families and support system if they access critical economic, health, housing, and other programs to escape or heal from violence. Survivors will be forced to choose between reuniting with loved ones and using benefits available to them – both of which are necessary to weather tough times. This will only serve to undermine or prolong a survivor’s recovery process.

[INSERT specific story or example of how having family as a support system helped a survivor to escape or recover abuse, a survivor who voiced the importance of family as a support system, a specific family member who helped a survivor, etc.]

Conclusion

For the reasons detailed in these comments regarding the harm that the proposed public charge rule will have on survivors of domestic violence and sexual assault, we strongly oppose any change to the public charge rule that will make it more difficult for survivors of violence to access critical protections they need to escape or recover from abuse. The changes to public charge policies as outlined in the proposed rule are having, and will continue to have, a significant detrimental impact on survivors of domestic violence and sexual assault.

We instead urge that the current guidance around public charge remain in effect. Under current policy, only cash “welfare” assistance for income maintenance and government funded long-term care received or relied upon by an applicant can be taken into consideration in the “public charge” test – and only when it represents the majority of a person’s support. The proposed rule would alter the test dramatically, abandoning the enduring meaning of a public charge as a person who depends on the government for subsistence, changing it to anyone, including a survivor, who simply receives assistance with support for health, nutrition, or housing to meet their basic needs. There is ample evidence that there is no issue with the current guidance and no persuasive rationale for change, and we therefore urge that DHS maintain reasonable existing guidance.

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Thank you for the opportunity to submit comments on the Notice of Proposed Rulemaking Inadmissibility on Public Charge Grounds. Please do not hesitate to contact [INSERT your name] to provide further information.

Sincerely,

[ORGANIZATION]

[NAME]

[TITLE]

[INSERT Contact information and add signature line if desired.]