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Hon. Rosanna Malouf Peterson

6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
8 AT RICHLAND

9 STATE OF WASHINGTON;  
COMMONWEALTH OF VIRGINIA;  
10 STATE OF COLORADO; STATE OF  
DELAWARE; STATE OF ILLINOIS;  
11 STATE OF MARYLAND;  
COMMONWEALTH OF  
12 MASSACHUSETTS; ATTORNEY  
GENERAL DANA NESSEL ON  
13 BEHALF OF THE PEOPLE OF  
MICHIGAN; STATE OF MINNESOTA;  
14 STATE OF NEVADA; STATE OF  
NEW JERSEY; STATE OF NEW  
15 MEXICO; and STATE OF RHODE  
ISLAND,

16 Plaintiffs,

17 v.

18 UNITED STATES DEPARTMENT  
OF HOMELAND SECURITY, a  
19 federal agency; KEVIN K.  
McALEENAN, in his official capacity  
20 as Acting Secretary of the United States

No. 4:19-cv-05210

BRIEF OF AMICI CURIAE  
NONPROFIT ANTI-  
DOMESTIC VIOLENCE AND  
SEXUAL ASSAULT  
ORGANIZATIONS IN  
SUPPORT OF PLAINTIFFS'  
MOTION FOR  
PRELIMINARY INJUNCTION

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Department of Homeland Security;  
UNITED STATES CITIZENSHIP  
AND  
IMMIGRATION SERVICES, a federal  
agency; KENNETH T. CUCCINELLI  
II,  
in his official capacity as Acting  
Director  
of United States Citizenship and  
Immigration Services,  
  
Defendant.

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**Cases**

*Michigan v. E.P.A.*,  
135 S. Ct. 2699, 192 L. Ed. 2d 674 (2015)..... 18

**Statutes**

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8 U.S.C. § 1184..... 6

**Regulations**

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*Inadmissibility on Public Charge Grounds*,  
84 Fed. Reg. 41292 (August 14, 2019)..... passim

**Other Authorities**

Adrienne Adams, Center for Financial Security, University of Wisconsin-  
Madison, *Measuring the Effects of Domestic Violence on Women’s Financial  
Well-Being*, CFS Research Brief 2011-5.6 (2011) ..... 9

C. Peterson et al., *Lifetime Economic Burden of Intimate Partner Violence  
Among U.S. Adults*, 55 American Journal of Preventative Medicine 4 (2018)  
..... 13

CDC Features, Preventing Sexual Violence (2019),  
<https://www.cdc.gov/features/sexualviolence/index.html> ..... 5

CDC, National Intimate Partner and Sexual Violence Survey: An Overview of  
2010 Findings on Victimization by Sexual Orientation (2010) ..... 5

CDC, National Intimate Partner and Sexual Violence Survey (2017) ..... 5

CDC, Preventing Intimate Partner Violence Across the Lifespan: A Technical  
Package of Programs, Policies, and Practices (2017)..... 10

1 CDC, Violence Prevention Fast Facts, *What is Intimate Partner Violence?*  
 (2019),  
 2 <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>  
 ..... 13

3 Cynthia Hess et. al., *Dreams Deferred: A Survey on the Impact of Intimate*  
 4 *Partner Violence on Survivors’ Education, Careers, and Economic Security*,  
 IWPR Brief #C4752 (2018)..... 9

5 Eleanor Lyon, National Resource Center on Domestic Violence, Publication 10,  
 6 *Welfare, Poverty, and Abused Women: New Research and its Implications*  
 (2000)..... 10

7 Elizabeth Marsh Das et. al., Family Violence Prevention Fund (predecessor of  
 8 Futures Without Violence) for Robert Wood Johnson Foundation,  
 9 *Understanding Children, Immigration, and Family Violence: A National*  
*Examination of the Issues* (2005)..... 4

10 J.L. Postmus et. al., *Understanding Economic Abuse in the Lives of Survivors*,  
 Journal of Interpersonal Violence, 27(3) (2012) ..... 9

11 K. M. Anderson et al., *Recovery: Resilience and Growth in the Aftermath of*  
*Domestic Violence*, 18 Violence Against Women 11 (2012)..... 15

12 M.J. Breiding et. al., *Chronic Disease and Health Risk Behaviors Associated*  
 13 *with Intimate Partner Violence-18 U.S. States/Territories*, 18 Annals of  
 Epidemiology 538 (2005) ..... 13

14 Michael Runner et al., Family Violence Prevention Fund for the Robert Wood  
 15 Johnson Foundation, *Intimate Partner Violence in Immigrant and Refugee*  
*Communities: Challenges, Promising Practices, and Recommendations* 10  
 (2009)..... 4

16 National Center on Family Homelessness, Health Care for the Homeless  
 17 Clinicians’ Network, *Social Supports for Homeless Mothers* (2003) ..... 11

18 National Network to End Domestic Violence, *Domestic Violence Counts: 12th*  
 19 *Annual Census Report* (2018), [https://nnedv.org/content/domestic-violence-](https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/)  
[counts-12th-annual-census-report/](https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/)..... 11

20 R. Levin et al., Center for Impact Research, *Pathways to and from*  
*Homelessness: Women and Children in Chicago Shelters* (2004)..... 11

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S. Goodman, National Resource Center on Domestic Violence, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims’ Economic Security* (2018), <https://vawnet.org/sites/default/files/assets/file> ..... 12

S.E. James et. al., National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* (2016) ..... 5

Sharon Smith et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release 7* (2018) ..... 5

U.S. Citizenship and Immigration Services, Check Case Processing Times, [egov.uscis.gov/processing-times/](http://egov.uscis.gov/processing-times/) (last visited Sept. 5, 2019) ..... 8

World Health Org. et al., *Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non-partner sexual violence* (2013) ..... 5

1 I. INTRODUCTION

2 The Department of Homeland Security’s (the “Department”) dangerous  
3 and unprecedented expansion of the infrequently invoked “public charge”  
4 grounds for immigration inadmissibility (the “Rule”)<sup>1</sup> endangers victims of  
5 domestic violence, sexual assault, and human trafficking and penalizes them for  
6 the abuse they have endured. Isolation and financial dependence are hallmarks of  
7 gender-based violence and are exacerbated by the unique and varied obstacles that  
8 immigrants face. By precluding these victims from accessing public benefits,  
9 including Medicaid, food assistance, and housing support, to which they or their  
10 children are entitled under federal law, the Rule makes it all but impossible for  
11 them to escape and overcome abuse. The Rule thus forces victims to choose  
12 between continued abuse or a semblance of freedom in which they are hungry,  
13 homeless, and without access to medical care. The threat of this impossible choice  
14 is already impacting the way immigrant victims live and parent, exposing them  
15 and their children to harm. To add insult to injury, the Rule also penalizes victims  
16 by directing U.S. Citizenship and Immigration Services (“USCIS”) to weigh  
17 negatively the direct consequences of abuse, such as financial instability,

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19 <sup>1</sup> *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. 41292 (August 14,  
20 2019).

1 inconsistent work history, and use of public benefits, when making a “public  
2 charge” admissibility determination. The Rule also disregards the costs it will  
3 impose on our communities, including local governments and nonprofit  
4 organizations, like Amici. Amici thus respectfully request that the Court grant  
5 Plaintiffs’ motion for a preliminary injunction and enjoin enforcement of the Rule.

6 **II. IDENTITY AND INTEREST OF AMICI**

7 Amici National Alliance to End Sexual Violence, National Coalition  
8 Against Domestic Violence, National Network to End Domestic Violence,  
9 National Resource Center on Domestic Violence, National Domestic Violence  
10 Hotline, API Chaya, Battered Women’s Justice Project, Sexual Violence Law  
11 Center, ASISTA Immigration Assistance, Asian Pacific Institute on Gender-  
12 Based Violence, Futures Without Violence, Legal Momentum, The Women’s  
13 Legal Defense and Education Fund , Tahirih Justice Center, Arizona Coalition to  
14 End Sexual and Domestic Violence, End Domestic Abuse Wisconsin: The  
15 Wisconsin Coalition Against Domestic Violence, Violence Free Colorado,  
16 Washington State Coalition Against Domestic Violence, Kansas Coalition  
17 Against Sexual and Domestic Violence, Maine Coalition to End Domestic  
18 Violence, Iowa Coalition Against Domestic Violence, Montana Coalition Against  
19 Domestic and Sexual Violence, Vermont Network Against Domestic and Sexual  
20 Violence, SC Coalition Against Domestic Violence and Sexual Assault, Texas



1 Council on Family Violence, Ohio Domestic Violence Network, Idaho Coalition  
2 Against Sexual & Domestic Violence, Jane Doe Inc., The Massachusetts  
3 Coalition Against Sexual Assault and Domestic Violence, Illinois Accountability  
4 Initiative, The North Carolina Coalition Against Domestic Violence, Nebraska  
5 Coalition to End Sexual and Domestic Violence, Kentucky Coalition Against  
6 Domestic Violence, Delaware Coalition Against Domestic Violence, National  
7 Council of Jewish Women, Illinois Coalition Against Domestic Violence, Rhode  
8 Island Coalition Against Domestic Violence, Nevada Coalition to End Domestic  
9 and Sexual Violence, Mississippi Coalition Against Domestic Violence, Legal  
10 Voice, New Jersey Coalition to End Domestic Violence, Casa de Esperanza:  
11 National Latin@ Network for Healthy Families and Communities, DC Coalition  
12 Against Domestic Violence, Ujima, Inc.: The National Center on Violence  
13 Against Women in the Black Community, and Washington Coalition of Sexual  
14 Assault Programs (collectively, “Amici”) are state and national nonprofit  
15 organizations that advocate for and provide services to victims of domestic  
16 violence, sexual assault, and trafficking. The identity and interest of amici are  
17 described in the concurrently filed Motion for Leave to File Brief of Amici Curiae.  
18 Several amici submitted comments to the proposed Rule during the public  
19 comment period. A representative sample of those comments is attached to this  
20 brief as Appendix A.

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### III. ARGUMENT AND AUTHORITY

#### A. The Rule applies to many victims of gender-based violence.

Gender-based violence is an epidemic that “cuts across all racial, class, and cultural lines.”<sup>2</sup> The “biggest risk factor . . . is being a woman.”<sup>3</sup> About one in four women in the United States will experience domestic violence during their lives.<sup>4</sup> And one in three women will experience sexual violence.<sup>5</sup> Global

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<sup>2</sup> Michael Runner et al., Family Violence Prevention Fund for the Robert Wood Johnson Foundation, *Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices, and Recommendations* 10 (2009).

<sup>3</sup> Elizabeth Marsh Das et. al., Family Violence Prevention Fund (predecessor of Futures Without Violence) for Robert Wood Johnson Foundation, *Understanding Children, Immigration, and Family Violence: A National Examination of the Issues* 3 (2005).

<sup>4</sup> Sharon Smith et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (“CDC”), *National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release 7* (2018).

<sup>5</sup>CDC, CDC Features, Preventing Sexual Violence (2019),

1 estimates of the prevalence of domestic violence and sexual violence are even  
2 higher.<sup>6</sup> Worldwide, one in three women will experience domestic violence or  
3 sexual violence in her lifetime.<sup>7</sup> The risk is further heightened for individuals  
4 who identify as lesbian, gay, or bisexual or who are transgender.<sup>8</sup> And “globally,  
5 as many as 38% of all murders of women are committed by intimate partners.”<sup>9</sup>  
6 A significant number of immigrants impacted by the Rule are thus likely to be  
7 victims of gender-based violence.

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<https://www.cdc.gov/features/sexualviolence/index.html>.

11 <sup>6</sup> World Health Org. et al., *Global and regional estimates of violence against*  
12 *women: Prevalence and health effects of intimate partner violence and non-*  
13 *partner sexual violence 2* (2013).

14 <sup>7</sup> *Id.*

15 <sup>8</sup> See CDC, *National Intimate Partner and Sexual Violence Survey: An Overview*  
16 *of 2010 Findings on Victimization by Sexual Orientation* (2010); S.E. James et.  
17 al., National Center for Transgender Equality, *The Report of the 2015 U.S.*  
18 *Transgender Survey* (2016). 47% of transgender individuals will be sexually  
19 assaulted during their lifetimes. *Id.*

20 <sup>9</sup> World Health Org., *supra*, at 2.

1 The Rule’s limited exceptions for certain victim-specific immigration  
2 categories do little to ameliorate that impact.<sup>10</sup> To start, many victims do not meet  
3 the onerous eligibility requirements for relief under the Violence Against Women  
4 Act (“VAWA”), T-visa, and U-visa programs, which are excepted from the Rule.  
5 For example, a victim is ineligible for relief under VAWA if she is not married to  
6 her abusive partner or if her abuser is not a citizen or a Permanent Resident,  
7 regardless of the extent of abuse she has endured.<sup>11</sup> U-visas are available only to  
8 victims who have obtained a signed certification from law enforcement  
9 demonstrating that the victim has aided in the investigation or prosecution of a  
10 crime that was committed against them.<sup>12</sup> If the victim does not or cannot report  
11 the abuse, law enforcement declines to certify its investigation or prosecution of  
12 the abuse, or the abuse does not constitute a qualifying crime under the U-visa  
13 statute, the victim is not eligible for the U-visa program. T-visas are available  
14 only to those who arrive in the United States as a result of being victims of an  
15 “extreme form of trafficking,” comply with law enforcement, and can

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17 <sup>10</sup> See 84 Fed. Reg. at 41297 (excepting immigrants seeking status under VAWA  
18 or the U- or T-visa programs from the Rule).

19 <sup>11</sup> See 8 U.S.C. § 1154 (a)(1)(A), (B).

20 <sup>12</sup> See 8 U.S.C. § 1184(p).

1 demonstrate that they would “suffer extreme hardship involving unusual and  
2 severe harm” if deported.<sup>13</sup> Reporting abuse, which is generally a prerequisite to  
3 seeking relief under the victim-specific immigration categories excepted from the  
4 Rule, is an insurmountable barrier for many immigrant victims, particularly where  
5 abusers “use immigration status to threaten deportation” if a victim reports or asks  
6 others for help.<sup>14</sup>

7 Even if eligible for relief under the VAWA, U-visa, or T-visa programs,  
8 many victims choose to pursue other immigration statuses (such as sponsorship  
9 by an employer or a family member) because the process of applying for those  
10 programs can be tedious, expensive, and time-consuming, or they fear their  
11 applications will be denied.<sup>15</sup> For example, Amicus API Chaya estimates that  
12 approximately 20% of the potentially eligible domestic violence, sexual assault,  
13 and trafficking victims it serves choose not to apply for the VAWA, U-visa, or T-  
14 visa programs for those reasons. In short, these limited exceptions to the Rule do

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16 <sup>13</sup> See 8 C.F.R. §214.11(i)(2).

17 <sup>14</sup> See *Runner, supra*, at 12.

18 <sup>15</sup> For example, USCIS estimates that it currently takes over four years to process  
19 U-visa applications. U.S. Citizenship and Immigration Services, Check Case  
20 Processing Times, [egov.uscis.gov/processing-times/](http://egov.uscis.gov/processing-times/) (last visited Sept. 5, 2019).

1 not apply to victims who are either ineligible, or for whom it would be  
2 impracticable, to apply for those programs, for reasons entirely unrelated to the  
3 nature or severity of the abuse they have endured.

4 **B. The Rule precludes victims from obtaining the public benefits they**  
5 **need to escape and overcome abuse.**

6 As advocates for and direct service providers to victims of gender-based  
7 violence, Amici are gravely concerned about the devastating impact the Rule will  
8 have, and indeed is already having, on the victims they serve. Under the Rule,  
9 receipt of many critical public benefits weighs against admissibility and will  
10 preclude an immigrant from receiving an extension of stay or adjustment of status  
11 once in the United States.<sup>16</sup> The Department expressly acknowledged that the  
12 Rule will cause harm to immigrants, including that it may dissuade them from  
13 accessing benefits to which they or their children are entitled under the law, yet  
14 declined to change course in the final Rule to avoid or mitigate that harm.<sup>17</sup>

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16 <sup>16</sup> 84 Fed. Reg. at 41296, 41297-99, 41302.

17 <sup>17</sup> *See id.* at 41363 (“DHS understands that certain applicants may be hesitant to  
18 receive certain benefits in light of the public charge assessment.”), 41366 (“DHS  
19 is aware that individuals may reconsider their receipt of public benefits in light of  
20 future immigration consequences.”).

1 Without access to public benefits, escaping abuse can be all but impossible.  
2 Abusers notoriously manipulate and trap their victims through isolation and  
3 financial dependence. Indeed, 99% of all domestic violence includes economic  
4 abuse.<sup>18</sup> Abusers commonly sabotage their victims' efforts to go to school, apply  
5 for work authorization, or obtain or maintain employment.<sup>19</sup> For example, in one  
6 study of women in Wisconsin who had experienced abuse, 57.8% said their  
7 abuser's threats had made them afraid to go to work or school, 29.8% reported  
8 that they had been fired because of domestic violence, and 33.9% had been beaten  
9 so severely they could not work.<sup>20</sup> Abusers also isolate their victims from sources

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11 <sup>18</sup> See, e.g., Adrienne Adams, Center for Financial Security, University of  
12 Wisconsin-Madison, *Measuring the Effects of Domestic Violence on Women's*  
13 *Financial Well-Being*, CFS Research Brief 2011-5.6 (2011); J.L. Postmus et. al.,  
14 *Understanding Economic Abuse in the Lives of Survivors*, *Journal of Interpersonal*  
15 *Violence*, 27(3), 411–430 (2012).

16 <sup>19</sup> See, e.g., Cynthia Hess et. al., *Dreams Deferred: A Survey on the Impact of*  
17 *Intimate Partner Violence on Survivors' Education, Careers, and Economic*  
18 *Security*, IWPR Brief #C4752 (2018).

19 <sup>20</sup> Eleanor Lyon, National Resource Center on Domestic Violence, Publication  
20 10, *Welfare, Poverty, and Abused Women: New Research and its Implications 4*,

1 of support, including by preventing the victim from learning English or  
2 communicating with friends, family, or others from their home country.<sup>21</sup> A path  
3 to financial security—including the ability to obtain food, healthcare, and safe and  
4 stable housing—is thus a critical, evidence-based prerequisite to escaping and  
5 overcoming abuse.<sup>22</sup>

6 By precluding access to public benefits such as housing supports, Medicaid,  
7 and food assistance, the Rule will trap victims and their children in abusive  
8 situations and perpetuate the harm they are already experiencing. For example,  
9 one of the greatest needs identified by victims is access to safe and affordable  
10 housing. In a single day, domestic violence programs across the United States  
11 received but were unable to meet nearly 7,500 requests for housing services.<sup>23</sup>

12 \_\_\_\_\_  
13 (2000) (internal citation omitted).

14 <sup>21</sup> See Runner, *supra*, at 12 (“IPV perpetrators frequently rely on foreign-born  
15 women’s limited English proficiency skills to control their behavior. For  
16 example, perpetrators who possess greater English language skills might silence  
17 their victims by serving as the family’s sole communicator in English.”).

18 <sup>22</sup> See CDC, Preventing Intimate Partner Violence Across the Lifespan: A  
19 Technical Package of Programs, Policies, and Practices (2017).

20 <sup>23</sup> National Network to End Domestic Violence, *Domestic Violence Counts: 12th*



1 Between 22 and 57% of all homeless women report that domestic violence was  
2 the immediate cause of their homelessness.<sup>24</sup> Supplemental Nutrition Assistance  
3 Program (“SNAP”) benefits, or food assistance, are also vital resources to ensure  
4 survivors can escape and overcome abuse.<sup>25</sup> Service providers report that  
5 approximately 80% of domestic violence victims and 55% of sexual assault  
6 victims use the SNAP program.<sup>26</sup> Precluding access to housing and food

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8 \_\_\_\_\_  
9 *Annual Census Report* (2018), [https://nnedv.org/content/domestic-violence-](https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/)  
counts-12th-annual-census-report/.

10 <sup>24</sup> See R. Levin et al., Center for Impact Research, *Pathways to and from*  
11 *Homelessness: Women and Children in Chicago Shelters* (2004); National Center  
12 on Family Homelessness, Health Care for the Homeless Clinicians’ Network,  
13 *Social Supports for Homeless Mothers*, 14, 26 (2003).

14 <sup>25</sup> The inclusion of SNAP benefits in the Rule also contradicts the SNAP statute,  
15 which provides that “the value of benefits that may be provided under this chapter  
16 shall not be considered income or resources for any purpose under any Federal,  
17 State, or local laws.” See 7 U.S.C. § 2017(b).

18 <sup>26</sup> S. Goodman, National Resource Center on Domestic Violence, *The Difference*  
19 *Between Surviving and Not Surviving: Public Benefits Programs and*  
20 *Domestic and Sexual Violence Victims’ Economic Security* (2018),

1 assistance will prevent many victims from escaping, and leave some with no  
2 choice but to return to, abuse. Homelessness and hunger are no antidote to an  
3 abusive relationship.

4 The Rule also deters victims from obtaining the healthcare they need to heal  
5 from abuse.<sup>27</sup> Many suffer serious health issues as a result of abuse, including  
6 acute injuries, chronic pain, and traumatic brain injuries, and are at an increased  
7 risk for suicide, depression, anxiety, posttraumatic stress disorder, and substance  
8 abuse.<sup>28</sup> Approximately 41% of female victims of domestic violence experience  
9 some form of physical injury as a result.<sup>29</sup> The average lifetime cost of services

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11 [https://vawnet.org/sites/default/files/assets/files/2018-](https://vawnet.org/sites/default/files/assets/files/2018-01/TheDifferenceBetweenSurvivingandNotSurviving_Jan2018.pdf)  
12 [01/TheDifferenceBetweenSurvivingandNotSurviving\\_Jan2018.pdf](https://vawnet.org/sites/default/files/assets/files/2018-01/TheDifferenceBetweenSurvivingandNotSurviving_Jan2018.pdf).

13 <sup>27</sup> The Rule excepts only non-emergency Medicaid benefits received by  
14 individuals under the age of 21, pregnant women, and women up to 60 days  
15 postpartum. *See* 84 Fed. Reg. at 41313.

16 <sup>28</sup> *See* M.J. Breiding et. al., Chronic Disease and Health Risk Behaviors  
17 Associated with Intimate Partner Violence-18 U.S. States/Territories, 18 *Annals*  
18 *of Epidemiology* 538-44 (2005).

19 <sup>29</sup> CDC, Violence Prevention Fast Facts, *What is Intimate Partner Violence?*  
20 (2019),

1 for female victims of domestic violence is \$103,767, with 59% of that total going  
2 to medical costs.<sup>30</sup> Health care access is also important because, in addition to  
3 treating the health consequences of abuse, the health care setting is often the first  
4 place that victims are asked about abuse and connected with community-based  
5 domestic violence and sexual assault services.

6 The Rule also penalizes victims for receiving short-term financial  
7 assistance through the Temporary Assistance for Needy Families (“TANF”) and  
8 state cash assistance programs (also known as welfare).<sup>31</sup> “Abused women’s  
9 access to independent economic resources, including welfare, is central to their  
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12 <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>.

13 <sup>30</sup> C. Peterson et al., *Lifetime Economic Burden of Intimate Partner Violence*  
14 *Among U.S. Adults*, 55 *American Journal of Preventative Medicine* 4, 433-444  
15 (2018).

16 <sup>31</sup> Although short-term financial assistance was previously considered under the  
17 “public charge” rule, under the new Rule receipt of such assistance (along with  
18 receipt of other public benefits) will now “weigh **heavily** in favor of a finding that  
19 an alien is likely at any time in the future to become a public charge.” 84 Fed.  
20 Reg. at 41503 (emphasis added).

1 decision-making and safety planning.”<sup>32</sup> In a 2017 study of service providers,  
2 approximately 85% responded that TANF is a critical resource for a significant  
3 number of the victims they serve.<sup>33</sup> The TANF program helps victims overcome  
4 the financial insecurity that abuse causes and is often an important factor in a  
5 victims’ decision-making regarding when, how, and if they can escape abuse. The  
6 inclusion of the TANF program in the Rule is particularly unreasonable, as the  
7 Department expressly acknowledges that the TANF program “is intended to foster  
8 self-sufficiency,” on the one hand, yet concludes that “considering TANF in the  
9 rule . . . is important in ensuring that aliens are self-sufficient,” on the other.<sup>34</sup>

10 The impossible choice that the Rule presents to victims is compounded by  
11 the fact that inadmissibility will also prevent them from sponsoring supportive  
12 family members, who can serve as critical sources of emotional and financial  
13 support for victims. A strong support system is vital to help a victim disclose,  
14 escape, and heal from abuse.<sup>35</sup>

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16 <sup>32</sup> Lyon, *supra*, at 1.

17 <sup>33</sup> Goodman, *supra*, at 13-14.

18 <sup>34</sup> See 84 Fed. Reg. at 41373.

19 <sup>35</sup> See K. M. Anderson et al., *Recovery: Resilience and Growth in the Aftermath*  
20 *of Domestic Violence*, 18 *Violence Against Women* 11, 1279-1299 (2012).

1           The Rule will also penalize victims for other direct consequences of the  
2 abuse they have endured. The Rule outlines a list of factors that USCIS must  
3 weigh negatively in determining whether an immigrant is likely to become a  
4 public charge, including, inconsistent work history, lack of English language  
5 skills, and lack of education.<sup>36</sup> As described above, economic abuse, including  
6 sabotaging a victim’s education and employment, is emblematic of domestic  
7 violence. Although the Department acknowledged that these negative factors  
8 could penalize victims for the abuse they have endured, it took no action to  
9 mitigate or address those impacts and instead stated vaguely that “USCIS will  
10 consider the totality of the alien’s circumstances, including any and all factors and  
11 considerations set forth by the alien” in making an inadmissibility  
12 determination.<sup>37</sup> But the Rule includes no assurances that USCIS will treat  
13 differently (much less explicitly except consideration of) negative factors that are  
14 caused by or related to abuse.

15           **C. The Rule is already harming victims and their families.**

16           Although the Rule is not yet in effect, the chilling effect of the Rule is so  
17 powerful that it is already impacting the victims that Amici serve. As just one

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19 <sup>36</sup> 84 Fed. Reg. at 41299.

20 <sup>37</sup> *Id.* at 41437.

1 example, an attorney with amicus Tahirih Justice Center reported that every caller  
2 she spoke with during the month the proposed Rule was published expressed  
3 concern about renewing public benefits. Even immigrant victims not subject to  
4 the Rule expressed this fear, due in large part to the fact that abusers often lie to  
5 victims about, restrict access to information and relevant documents regarding,  
6 and threaten to sabotage victims' immigration status.<sup>38</sup> The fears expressed by  
7 victims foreshadow the grave harm the Rule will cause to them and their families.

8 Victims are already foregoing critical housing, food, and healthcare  
9 assistance out of fear that it will jeopardize their immigration status. For example,  
10 amicus Tahirih Justice Center reports that one of the women it serves fled with  
11 her children to a shelter and declined to obtain public housing (which was  
12 available via her U.S. citizen children) because she did not want to jeopardize her  
13 immigration status. She is now homeless and searching for affordable housing  
14 closer to her job, and her children are now living with her abusive partner because  
15 she could not provide a stable home. Amicus Sexual Violence Law Center reports  
16 that a client who had been raped refused a Sexual Assault Nurse Examiner  
17 ("SANE") exam, through which rape survivors receive free, emergency medical  
18 treatment and trained providers collect and preserve forensic evidence, because

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20 <sup>38</sup> See *Runner, supra*, at 4, 12.

1 she feared that doing so would preclude her from receiving lawful permanent  
2 residency or citizenship in the future. As a result, the client's injuries from the  
3 rape, including severe internal genital trauma and pelvic fractures, remain  
4 untreated.

5 Fear of the Rule is so great that it is also impacting victims to whom it does  
6 not apply. Another amicus, Iowa Coalition Against Domestic Violence, reports  
7 that a victim recently chose to stay in an abusive relationship because she was  
8 afraid using a Section 8 housing voucher would jeopardize her pending U-visa  
9 petition and she had no other avenue for obtaining safe, affordable housing.  
10 Similarly, a victim of sex trafficking by her husband, a U.S. citizen, was finally  
11 able to escape to a shelter with her two young children but, when offered housing  
12 assistance, declined out of fear that accepting that assistance would jeopardize her  
13 VAWA and T-visa petitions. The client was willing to become homeless with her  
14 two children, and potentially return to sex slavery, to avoid risking deportation.  
15 Her attorney and caseworker were ultimately able to convince her that she was  
16 exempt from the Rule and that accepting housing assistance would not impact her  
17 immigration case.

18 **D. The Rule disregards the costs it imposes on our communities.**

19 Finally, the Rule fails to weigh the costs to our communities, including  
20 local governments and private organizations like Amici, as the Administrative

1 Procedure Act (“APA”) requires. The Rule describes the money saved by  
2 reducing public benefits available to immigrants and the direct cost of compliance  
3 with the Rule, but ignores the broader impacts to our communities as a result of  
4 unmitigated trauma to victims and their families.<sup>39</sup> In weighing the costs and  
5 benefits, and thus the reasonableness, of a regulation, the APA directs that “‘cost’  
6 includes more than the expense of complying with regulations . . . .”<sup>40</sup> The Rule  
7 gives short shrift to that directive.

8 The absence of a meaningful cost analysis is particularly conspicuous since  
9 the Department elsewhere acknowledges the “potential nexus” between the Rule  
10 and “food insecurity, housing scarcity, public health and vaccinations, education  
11 health-based services, reimbursement to health providers, and increased costs to  
12 states and localities . . . .”<sup>41</sup> As Amici explained in their comments on the  
13 proposed Rule, these impacts would be widespread and significant. Because the  
14 Rule precludes victims from getting the support they need to escape and overcome  
15 abuse, they will likely be subjected to further trauma and injury, which will result  
16 in both short- and long-term physical, mental, and financial consequences. This

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18 <sup>39</sup> See 84 Fed. Reg. at 4130-32.

19 <sup>40</sup> *Michigan v. E.P.A.*, 135 S. Ct. 2699, 2707, 192 L. Ed. 2d 674 (2015).

20 <sup>41</sup> 84 Fed. Reg. at 41313.



1 will result in heightened demand for social services, such as emergency food  
2 banks and domestic violence and homeless shelters, and increased uncompensated  
3 health care costs from overutilization of emergency rooms for medical care.  
4 Private nonprofit organizations will be forced to absorb the costs associated with  
5 increased and prolonged utilization of victim support programs, such as  
6 emergency shelter and housing programs, for which only limited funding is  
7 available. These costs far outweigh any perceived benefit of the Rule, and should  
8 be meaningfully weighed, measured, and mitigated in the development of any  
9 regulation impacting victims of gender-based violence. That the Rule's costs  
10 outweigh its perceived savings demonstrates that the purpose of the Rule is not to  
11 minimize the economic impact of immigration, but instead to dissuade immigrants  
12 and their families, including victims, from trying to immigrate or lawfully remain  
13 in the United States.

#### 14 **IV. CONCLUSION**

15 The Rule will have, and indeed is already having, a devastating impact on  
16 victims of gender-based violence and their families. The Department ignored, if  
17 not knowingly disregarded, those impacts and the costs they would impose on our  
18 communities in developing the Rule. Amici respectfully request that the Court  
19 enjoin enforcement of the Rule.

20 DATED this 6th day of September, 2019.

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