APPENDIX A
December 10, 2018

Samantha Deshommes, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

RE: DHS Docket No. 2010-0012-0001, CIS No. 2499-10, RIN 1615-AA22,
Comments in Response to Proposed Rulemaking: Inadmissibility on Public
Charge Grounds
Submitted via www.regulations.gov

Dear Chief Deshommes:

Below please find comments submitted in response to the Department of Homeland Security’s (DHS) and the Notice of Proposed Rulemaking (hereinafter “proposed rule”) published in the Federal Register on October 10, 2018 on behalf of the Asian Pacific Institute on Gender-Based Violence (API-GBV). The API-GBV is a national resource center on domestic violence, sexual violence, trafficking, and other forms of gender-based violence in Asian and Pacific Islander and immigrant communities. The API-GBV works in partnership with various national networks of advocates, community-based service programs, federal and state government agencies, national and state organizations, legal, health, and mental health professionals, researchers, policy advocates, and activists from social justice organizations to better address the needs of Asian and Pacific Islander and immigrant victims. API-GBV analyzes critical issues, promotes culturally relevant evidence-informed intervention and prevention, provides consultation, technical assistance and training; develops resources, conducts and disseminates research, and impacts systems change through administrative advocacy and policy analysis. Based on our experience supporting victim services providers who work with Asian and Pacific Islander and immigrant survivors of gender-based violence, and in working directly with immigrant survivors, we strongly oppose the proposed public charge rule.

The proposed rule undermines the progress that our communities have made to advance victim and public safety and health, jeopardizing domestic violence, sexual assault, and human trafficking victims in the following ways:

a. The proposed rule undermines Congressional intent to protect and support victims of domestic violence, sexual assault, and human trafficking, representing a significant change in longstanding policy.
b. The proposal discourages survivors from seeking or utilizing safety net benefits that are crucial to survivors’ ability to escape or recover from abuse and trauma.

c. The proposed rule punishes survivors of domestic violence and sexual assault for the violence they’ve experienced.

d. The proposal isolates survivors from their families, which are often essential sources of support when escaping and recovering from abuse.

Not only will the proposed rule impose significant human suffering on victims and their families, it will also impose long-term economic costs on our communities due to increased injury and health consequences of unmitigated trauma as well as increased burdens for victim advocacy organizations working to support immigrant survivors. Due to these detrimental impacts, API-GBV submits the following comments on the proposed regulation as follows:

1) The proposed rule is inconsistent with clear Congressional intent to protect and provide support for victims of domestic violence, sexual assault, and human trafficking, and undermines victims’ ability to obtain and maintain safety as a result of abuse.

The proposed rule exempts several categories of non-citizen victims of domestic violence and sexual assault seeking admission or adjustment of status who are statutorily exempt from application of the public charge ground of inadmissibility pursuant to INA §212(a)(4), such as those seeking status pursuant to the Violence Against Women Act, U visas, and asylum, among others. The proposed rule also exempts certain victims of human trafficking seeking admission. However, the exemptions at proposed 8 CFR 212.20 fails to protect large numbers of victims from the negative impacts of the proposed public charge rule. Many victims of domestic violence, sexual assault, and human trafficking, along with their family members, seek status in other, non-victim based, immigration categories and will be harmed as a consequence.

Victims 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 status and the proposed rule does not directly apply to them because they are not seeking admission or adjustment, their family members who may be seeking admission or permanent residence will be harmed.

Domestic and sexual violence are widespread in our communities – with one in three women and one in six men experiencing some form of sexual violence in a lifetime2 and more than 12 million men and women experiencing rape, physical violence, or stalking

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by an intimate partner each year in the United States. In the Asian and Pacific Islander (AAPI) community, 21-55% of women report experiencing domestic or sexual violence during their lifetime. AAPIs are among the fastest growing populations in the U.S., and in recent years, three out of every ten individuals obtaining permanent residence status are from Asia and Pacific Island nations, as well as forty percent of the millions of individuals waiting in the family-based immigration category backlogs.

Due to the prevalence of domestic and sexual violence and human trafficking, our communities have provided for many important protections and programs to ensure all victims’ ability to access safety and justice and promote healthy communities. Congress has affirmed its commitment to supporting victims to escape, recover from, and overcome abuse in various legislative enactments, including the Violence Against Women Act (“VAWA”), the Family Violence Prevention and Services Act (“FVPSA”), the Child Abuse Prevention and Treatment Act (“CAPTA”), the Victims of Trafficking and Violence Protection Act (“TVPA”), and the Victims of a Crime Act (“VOCA”). In addition, while reforming federal welfare programs in 1996 in the Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”). In addition, Congress established the Family Violence Option (“FVO”) to prevent reforms from unfairly penalizing or putting domestic violence victims at further risk of abuse.

13 42 U.S.C. § 602 (a)(7)
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. As written, it is overbroad and undermines congressional intent.

2) The proposed public charge rule represents a drastic change in well-established, longstanding policy, contravening Congressional intent

   a. Definitions: Public charge: Proposed section 212.21:

Proposed Section 212.21(a) defines Public Charge as “an alien who receives one or more public benefit as defined in paragraph (b) of this section. API-GBV strongly opposes this definition and recommends that the current definition of public charge be retained. Current guidance defines “public charge” as anyone “who has become or who is likely to become primarily dependent (emphasis added) on the government for subsistence, as demonstrated by either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense.” The proposed language is a dramatic change to the long-understood meaning of public charge and is inconsistent with Congressional intent in providing non-cash benefits as supports to help victims overcome abuse and to supplement the employment of low-income working families as well as the prospective nature of the public charge determination.

In addition, receipt of non-cash benefits as listed in proposed Section 212.21(b) is significantly more expansive than the current consideration of the use of two categories of public benefits for subsistence. DHS proposes to look at receipt of cash assistance for income maintenance, SNAP benefits, Section 8 Housing assistance under the Housing Choice Voucher Program, Section 8 Project-Based Rental-Assistance (including Moderate Rehabilitation), Medicaid (with certain listed exceptions, Premium and Cost Sharing Subsidies for Medicare Part D, and Subsidized Housing under the Housing Act of 1937 in making determinations of public charge. Expanding consideration of the listed non-cash programs for public charge determinations contradicts Congressional intent to alleviate hunger and illness. Unlike the proposed rule, prior guidance, which stated that the receipt of non-cash benefits should not be a determining factor in deciding whether an individual is likely to become a public charge, ¹⁴ furthers Congressional intent to expand access for identified immigrant populations to access certain public benefits. For example, Congress sought to provide access for immigrant children and immigrants receiving disability benefits to the Supplemental Nutrition Assistance Program (SNAP) in the 2002 Farm Bill, ¹⁵ and pregnant women and lawfully present children for Medicaid and CHIP without a 5-year waiting period in the Children’s Health Insurance Program Reauthorization Act (CHIPRA). ¹⁶ Penalizing individuals who received these benefits by

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¹⁴ Specifically, the guidance states that “officers should not place any weight on the receipt of non-cash public benefits (other than institutionalization) or the receipt of cash benefits for purposes other than for income maintenance with respect to determinations of admissibility or eligibility for adjustment on public charge grounds.”


putting them in an impossible predicament where they cannot both receive the public benefits and immigration status they are eligible to receive, contravenes Congressional intent.

Furthermore, rather than amending the public benefits or public charge statutes to include additional public benefits programs to be considered, Congress has continued to affirm existing administrative interpretations of the law. For example, in 1986, Congress enacted a “special rule” to overcome the public charge test if an immigrant “demonstrates a history of employment in the United States evidencing self-support without receipt of public cash assistance”(emphasis added).17 “Public cash assistance” was defined as “income or needs-based monetary assistance” such as SSI, a program that is currently part of the test, but specifically excluded food stamps, public housing and medical assistance.18 Subsequently, the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)19 limited eligibility for “federal means-tested public benefits,” such as Medicaid and SNAP to “qualified” immigrants, and defined “qualified” to lawful permanent residents, asylees, refugees, VAWA self-petitioners, among others. Despite restricting eligibility for these benefits in this way, Congress declined to use the term “means-tested public benefits” in the adjustment of status statute, indicating its intent to maintain the distinction. After passage of the PRWORA, the INS issued field guidance consistent with language distinct for eligibility for benefits programs and overcoming a public charge determination. Thus, adding programs such as SNAP, Section 8 housing assistance, many forms of Medicaid and the Medicare Part D Low-Income Subsidy Program to the public charge determination, is inconsistent with Congressional intent.

As part of PRWORA, in passing the Family Violence Option, Congress recognized the importance of access to benefits to support victims of domestic violence and provided exemptions from program requirements that would unfairly punish or put victims at further risk of family violence.20 Similarly, putting immigrant victims in a position to be found ineligible for admission or adjustment of status based on receipt of benefits that would be critical for them in obtaining safety, contravenes Congressional intent and both unfairly punishes them for needing the benefits to escape or recover from abuse, and puts victims at further risk.

The proposed rule’s new income threshold has no statutory basis

API-GBV strongly opposes the usage of the new income thresholds proposed in the definition of Public Benefit in Section 212.21(b)(1), which proposes a 15% of the federal poverty level as a threshold for when “monetizable” benefits should be counted. At 83 FR 51165, DHS seeks input on whether to consider the receipt of designated monetizable

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18 See 8 CFR 245A.1(i), explicitly stating that “public cash assistance” “does not include assistance in kind, such as food stamps, public housing, or other non-cash benefits.”
20 42 U.S.C. § 602 (a)(7)
public benefits at or below the 15 percent threshold. API-GBV strongly opposes consideration of any receipt of benefits below the designated threshold. As DHS acknowledges in the preamble, consideration of any lower level of benefits could have significant unintended consequences.

The proposed rule would penalize non-citizens, including survivors of domestic violence, sexual assault, and human trafficking, who are considered, but for the usage of a small amount benefit, essentially self-sufficient. If a survivor of domestic or sexual violence used even limited benefits for a relatively short amount of time in order to escape or overcome abuse, they could be barred from admission or adjustment. This absolute standard overlooks the extent to which the individual is supporting themselves or their family members. For example, a family of four that with a $43,925 annual income that receives just $2.50 per day per person in monetizable public benefits would be receiving just 8.6 percent of their income from the government programs, meaning that they are 91.4 percent self-sufficient.\(^{21}\)

DHS further acknowledges that in other contexts, such as the determination of whether an individual is a dependent for tax purposes, or HHS’s indicators of welfare dependence, the test that is applied is whether the individual or household receives more than half of their total annual income from the designated source. However, at 83 FR 51164, DHS rejects this definition simply because it “believes that receipt of such benefits, even in a relatively small amount or for a relatively short duration would in many cases be sufficient to render a person a public charge.” The only justification provided for the lower threshold is that the current policy is “insufficiently protective” of the public budget, which is not an appropriate or relevant factor for DHS to consider.

The INA refers only to the income threshold for sponsors who are required to submit an affidavit of support, not to the individual seeking admission or adjustment of status. In imposing a standard not contemplated in the statute, DHS provides no justification for why usage of this threshold is appropriate.

**Proposed Section 212.21(d) Definition of Household** includes people to whom an immigrant provides financial support, even if they do not live with the immigrant. This definition is then used in determining whether the household has income sufficient to meet the 125% and 250% of the federal poverty level thresholds that this rule creates. Domestic and sexual violence survivors may be unjustly penalized in a public charge determination for providing continuing to provide financial support to former partners or family members even if they are involuntarily coerced into providing such support, or have managed to cease living with them due to the abuse.

In addition, individuals seeking admission or to immigrate can be penalized for providing family support to a sibling or parent to whom they have no legal obligation. This is true even if the support they provided means their family members can avoid seeking public assistance that they are eligible for. Furthermore, many immigrants provide financial

support to family members who remain in their countries of origin, where the cost of living is often lower. In some countries, as little as $100 a month could well constitute more than 50 percent of an individual’s financial support. However, this would mean that the person should be counted as part of the immigrant’s household size, which would drive up the earnings they would need to meet the threshold by much higher amounts.

3) DHS Fails to Adequately Evaluate the Impacts of the Proposed Rule on Survivors of Domestic Violence, Sexual Assault, and Human Trafficking

Economic resources play a critical role in supporting the safety of victims of domestic violence, sexual assault, and human trafficking. 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 and exploitative situations. Without sufficient resources, victims are either compelled back into an abusive or exploitative relationship, or face destitution and homelessness. The broad definition of “Likely at any time to become a public charge” found at proposed Section 212.21(c) will likely unfairly exclude large numbers of survivors of domestic and sexual violence and human trafficking, given the importance of access to economic support to escape and recover from abuse over their lifetimes.

   a. The proposed rule is inconsistent with the prospective nature of the public charge determination, ignoring the positive long-term impacts of supports for survivors to overcome abuse

Proposed Section 212.22(a) Prospective determination based on the totality of circumstance accurately reflects the statutory language about the totality of circumstances. However, API-GBV opposes the subsequent listing of factors and additional criteria, which serve to undermine this intent by creating a large number of ways to fail, and a limited number of ways to overcome the inadmissibility ground, barring many low- and moderate-income individuals to qualify.

Proposed Section 212.22 (b) Minimum factors to consider include age, health, family status, assets, resources, financial status, education and skills, prospective immigration status and expected period of admission, an affidavit of support, if required. We strongly oppose the addition of additional criteria to the statutory totality of circumstances test, in particular, because survivors of domestic violence, sexual assault, and human trafficking are likely to be negatively impacted by the criteria, for reasons often directly related to the abuse or trauma that they have experienced.

Proposed section 212.22 (b)(1) Age While age is one of the statutory criteria to include in the public charge test, we strongly oppose treating being under age 18 or over age 61

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23 Id.
as a negative factor, in particular, because for children, deeming them as a public charge because they are not working is contrary to assertions that the public charge determination is a prospective test.

**Proposed section 212.22 (b)(2) Health** While health has always been a factor in the public charge test, the proposed rule codifies and unduly weights the specific standard for evaluating an individual’s health. The new standard includes any medical condition likely to require extensive medical treatment or institutionalization or that will interfere with a person's ability to provide and care for him- or herself, to attend school, or to work. This category will significantly impact survivors of domestic and sexual violence who have experienced the physical and mental health consequences of the trauma they’ve experienced.

Survivors overcoming abuse and trauma face often experience lower mental and physical health. A study by the Centers for Disease Control and Prevention (CDC) found that more than 550,000 injuries due to intimate partner violence require medical attention each year.\(^{24}\) 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.\(^{25}\) Sexual violence can also have harmful and lasting physical and psychological consequences including chronic pain, gastrointestinal disorders, gynecological complications, migraines or other frequent headaches, sexually transmitted infections, vaginal cancer, genital injuries,\(^ {26}\) as well as post-traumatic stress disorder, or attempted or completed suicide.\(^ {27}\) Thus, many survivors of domestic violence, sexual assault, and human trafficking will have this factor weigh against them in the public charge determination.

**Proposed section 212.22 (b)(3) Family status** DHS proposes to consider the number of people in a household as defined in the proposed 212.21(d), thus, having a large household will be counted as a negative factor in itself, as well as making it harder for


families to achieve the income thresholds required to avoid a negative factor under “assets, resources and financial status.” The proposed rule will penalize survivors of domestic and sexual violence and human trafficking who often seek the help of family members to not only overcome the trauma they have experienced, but also help alleviate housing and childcare expenses, and strengthen their ties to the United States. Traditionally, having family members who can be expected to help someone who is immigrating has been treated as a positive factor under the totality of circumstances test, as discussed at 83 FR 51178-79. As drafted, the proposed rule’s treatment of family status disregards the beneficial nature of a large household in considering the totality of circumstances.

Proposed section 212.22 (b)(4) Assets, resources and financial status The large number of criteria that will be taken in account in assessing assets, resources and financial status will likely harm immigrant survivors. It proposes to treat failing each of these criteria negatively against an immigrant that must be offset by a corresponding positive factor. The cumulative effect of each criteria listed makes this factor weigh more heavily than any of the other statutorily mandated factors -- even beyond the additional weighting DHS explicitly proposes of certain elements of this factor.

Proposed section 212.22 (b)(4)(i)(A) Income Threshold At 83 FR 51187, DHS invites comments on the 125 percent of Federal Poverty Guidelines (“FPG”) threshold. API-GBV strongly opposes the use of this arbitrary threshold, as it penalizes domestic violence and sexual assault survivors, those who are caregivers for children, the elderly, or other family members, and immigrant women generally. A recent study by the Migration Policy Institute found that women may be more likely to be denied their green cards under the proposed rule because, in comparison to immigrant men, they are less likely to be employed, more likely to be primary caregivers for children and family members, and more likely to have lower incomes. Among recent green card recipients, women comprised 70 percent of those not employed nor enrolled in school.

In addition, immigrant survivors may lack employment experience or job skills due to isolation or sabotage by their violent partner. Several studies have documented how domestic violence perpetrators deliberately try to sabotage their victims’ efforts to obtain and keep paid employment. Such tactics, also known as economic abuse, include damaging or destroying victims’ work clothes or other items associated with their jobs or job training, inflicting facial bruises or cuts, or other visible injuries to keep them from going to work, promising to care for their children but not showing up or becoming unavailable at the last minute, and stalking women while they are at work. In addition, perpetrators often obstruct victims’ ability to manage their own finances, or use wages

29 Id.
the wages that they are able to earn to establish economic independence. Violent partners of immigrant victims often engage in economic abuse by prohibiting their victims from learning English or from working outside the home in order to maintain control.

Finally, even individuals who work full-time year-round at the federal minimum wage, who does not miss a single day of work would fail to achieve the 125% of FPG threshold, demonstrating the arbitrary nature of the listed threshold. Given that immigrant women are frequently targeted for sexual abuse in the workplace, especially in low wage jobs, and traumatized as a result, this provision of the public charge proposal has particularly harmful impact on survivors.

**Proposed section 212.22 (b)(4)(ii)(H) Credit History and Credit Scores** At 83 FR 51189, DHS invites comments on how to use credit history and scores. API-GBV opposes the use of credit scores as part of the “public charge” determination. Neither credit reports nor credit scores were designed to provide information on whether a consumer is likely to rely on public benefits or on the character of the individual.

Survivors of domestic violence, sexual assault or stalking frequently have poor credit as a result of the exploitive control tactics employed by their abusers. For example, abusers have been shown to interfere with a victim’s ability to maintain economic resources by having debt generated in the victim’s name. Research suggests that some domestic violence abusers refuse to pay rent or make mortgage payments and refuse to pay other bills, thereby placing the responsibility and consequences on their partners. Another way that abusive partners have been shown to generate debt for their partners is by identity theft, such obtaining credit cards in the victim’s name without consent. Thus, domestic violence and stalking victims are at risk for accruing personal debt and poor credit history.

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34 Consumer Financial Protection Bureau, *Data Point: Credit Invisibles*, 2015, [http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf](http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf) (most credit scoring models predict likelihood that consumer will become 90 or more days past due in the following two years).


37 *Id.*
Finally, using credit reports and credit scores to determine public charge status is also inappropriate because many immigrants will not even have a credit history for USCIS to consider.

**Proposed section 212.22 (b)(4)(i)(C) and Section 212.22 (b)(4)(ii)(F) Applying for, receiving, or being approved to receive public benefits, as defined in the proposed CFR 212.21(b)** This section proposes to consider the any receipt of -- or application for or approval for -- any of the specified public benefits on or after the effective date of the final rule, no matter how long ago it occurred, or whether the immigrant was a child at the time of receipt. API-GBV opposes inclusion of this criteria in the rule. Programs that support basic economic security are of critical importance for domestic and sexual violence and human trafficking victims. While domestic violence and sexual assault occur across the socio-economic spectrum, there are unique challenges and barriers at the intersection of these forms of violence and economic disadvantage:

- Significant numbers of low-income women are abused or assaulted, and the violence perpetrated against them can make it nearly impossible to climb out of poverty without public assistance.  
- Abuse can result in victims falling into poverty: either because the domestic violence itself included financial abuse or because the consequences of abuse or assault have undermined the victim’s ability to work, maintain their housing, or otherwise access financial security.  
- Poverty and economic instability can exacerbate the physical health, mental health, and financial impacts of domestic violence and sexual assault due to, for example, lack of access to affordable counseling and health services, transportation, and/or legal assistance.

The proposed rule also ignores the fact that victims often use these economic benefits as work supports which help them and their family members escape abuse, overcome trauma, and become healthier, stronger, and more employable in the future. Receipt of benefits that cure a significant medical issue or provide an individual with the opportunity to complete their education can be highly significant positive factors that contribute to future economic self-sufficiency.

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39 Id.
In addition, as discussed in more detail further below, the consideration of any use of even a small amount of public benefits, no matter how long ago, will greatly increase the chilling effect of this rule, limiting the ability of victims to escape abuse and heal and recover from trauma. If they are concerned receipt of health care, housing, or food assistance today could limit their immigration options in the future, they will be unwilling to participate in these programs, even if it puts their health and well-being at risk.

Proposed section 212.22 (b)(5) Education and skills

Similar to the impact of domestic violence, sexual assault and stalking on victims’ income, the ability of victims to obtain education or learn the English is often compromised by their abusers’ sabotage or isolation tactics. In addition, the English Language Proficiency criterion found at Section 212.22 (b)(5) is unreasonable considering that the public charge assessment applies to individuals when they first enter the U.S. or apply for lawful permanent residence. People from non-English speaking countries who are newly entering the U.S. or applying to adjust status are less likely to have gained proficiency in English. Our immigration laws explicitly require an English test for lawful permanent residents who have lived in the U.S. for a number of years—i.e., when they apply to become a U.S. Citizen, not when individuals are seeking lawful permanent status. In addition, the application of this factor is inappropriate for seeking admission as non-immigrants, as they may be entering for the very purpose of learning English, or entering for limited periods of time for limited purposes, for which English proficiency may be irrelevant. Thus, applying such a consideration at the step of admission or adjustment is illogical and conflicts with the statute.

Proposed section 212.22 (b)(6) Prospective Immigration Status/Period of Admission

We highly recommend that the proposed rule include, in considering the totality of the circumstances, the protective effect of secure immigration status against abuse and exploitation, as well as the bolstering effects on family stability. Research conducted among immigrant victims across the U.S. found that 65% of immigrant victims reported that their violent partner had used some form of a threat of deportation after arrival in the U.S. as a form of abuse.\footnote{E. Erez & N. Ammar, Violence Against Immigrant Women and Systemic Responses: An Exploratory Study. National Network on Behalf of Battered Immigrant Women, National Institute of Justice Report grant # 98-WT-VX-0030 (2003)}

In applying the public charge rule, DHS should consider the supportive and protective effects of stable immigration status to victims. DHS should support the purpose and guidance of the important protections that Congress has afforded for victims in federal laws like VAWA, FVPSA, the TVPA, VOCA, and the Family Violence Option of the PRWORA,\footnote{Supra, notes 7-13.} and other important laws protecting victims, even if they are not seeking admission under an exempt victim-specific category. As recognized under VAWA, admission to the United States or adjustment of status can help victims access employment and increase their ability to escape the violence or overcome the trauma they’ve suffered. Furthermore, stable immigration status helps individuals obtain secure


41 Supra, notes 7-13.}
better paying jobs, reducing the stress associated with exploitative working conditions, leading to better short-term and long-term outcomes for their families.\textsuperscript{42}

**Proposed section 212.23: Exemptions and waivers for public charge ground of inadmissibility** We believe this section generally captures the exemptions and waivers for the public charge ground inadmissibility, with the exception of DHS’ statement of the law as it applies to public charge exemptions for victims of human trafficking when applying for T-visas and T-visa based adjustment of status. The TVPA explicitly created a waiver of the public charge ground for T Visa applicants.\textsuperscript{43} The TVPA likewise allowed the Attorney General to waive the public charge inadmissibility ground for any T Visa holder seeking to adjust status to that of a permanent resident.\textsuperscript{44} However, in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Congress continued to expand protections and services for human trafficking survivors and added them to the list of “qualified aliens” eligible for federal, state and local public benefits.\textsuperscript{45} And, in the subsequent 2013 reauthorization of the TVPA, Congress amended the public charge provision by adding such qualified aliens to the list of individuals exempt from the public charge ground.\textsuperscript{46} In other words, this amendment made even clearer that both individuals applying for and persons already granted T Visas are exempt from the public charge ground of inadmissibility. Thus, the public charge ground of inadmissibility should not apply to individuals who have been granted T Visas seeking adjustment of status to lawful permanent residency.

In addition to changing the language to reflect this exemption for survivors of human trafficking, DHS should further the ameliorative purposes of VAWA, the TVPA and other victim protections and clearly provide waivers in section 212.23(b) for individuals who would otherwise qualify for protections provided for victims of domestic violence, sexual assault, and human trafficking afforded under VAWA, the TVPA, and other humanitarian immigration provisions, and are seeking admission or adjustment of status under another provision in the INA. Doing so not only provides increased protection for victims, but also reduces the burden on the immigration system, by decreasing additional processing of immigration applications, and reducing pressure on immigration court dockets.

**Proposed Section 214: Nonimmigrant Classes and proposed Section 248: Change of Nonimmigrant Classification** For nonimmigrants, including F-1 students, J-1 exchange visitors, H-1B specialty workers, or migrants from Compact of Free Association (COFA) nations, i.e., the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau, or their dependents, the public charge test would be applied when they apply to extend or adjust their nonimmigrant status. For survivors of domestic and sexual


\textsuperscript{43} Trafficking Victims Protection Act of 2000, Pub. Law 106-386 Sec. 107(e)(3).

\textsuperscript{44} Pub. Law 106-386 Sec. 107(f).

\textsuperscript{45} Pub. Law 110-457 Sec. 211 and codified at 8 § U.S.C. 1641(c).

\textsuperscript{46} Pub. Law 113-4 Sec. 804 and codified at 8 § U.S.C. 1641(c).
violence who hold such non-immigrant statuses, the proposed rule would create additional barriers for these individuals, as they would be subject to the public charge test each time they extend or change their status. For example, an international student on a F-1 who has been sexually assaulted on campus who has accessed economic or health supports to recover from the trauma could be negatively impacted under the proposed public charge test when they apply to renew their visa in the future.

In addition, many nonimmigrant classifications require the individual to demonstrate that they can support themselves financially. For example, F-1 and M-1 students, must show “sufficient funds available for self-support during the entire proposed course of study.”47 B-1 and B-2 tourists must also demonstrate that they have adequate means of financial support during the course of their stay in the U.S.48 By definition, most employment-based nonimmigrant visas require a sponsor and compensation by employers. Thus, financial stability is already incorporated in most nonimmigrant visa categories. Given these existing safeguards, expanding existing public charge assessment to these categories is a poor use of USCIS resources.

4) 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

a. Hindering Access to Economic Supports Undermines Survivor Safety

Victims are already afraid to access basic needs programs, and the proposed rule will exacerbate those fears. The proposed change in public charge policy is already deterring immigrant families and survivors from accessing the services and programs they need to escape and overcome violence, even though the proposed rule has not taken effect. Survivors and their families are already withdrawing from assistance programs that support their basic needs. According to researchers at the Boston Medical Center, among eligible immigrant families who have been in the U.S. for less than five years, participation in SNAP decreased by nearly 10 percent in the first half of 2018-before the rule was even published or implemented.49 Other studies by the Kaiser Family Foundation and The Children’s Partnership and the California Immigrant Policy Center, conducted prior to publication of the proposed rule, also found that immigrant families—including those with lawful status—were experiencing high levels of fear and anxiety leading to decreased enrollment and disenrollment of their children in basic health and nutrition programs.50

47 USCIS, Students and Employment Noncitizen Eligibility for Federal Public Assistance: Policy Overview. (Feb. 6, 2018)
b. Access to Housing, Health, Food, And Other Key Supports Helps Survivors Escape and Overcome Abuse, with Positive Long-Term Effects on Safety and Health, Which Support Well-Being and Self-Sufficiency

At 83 FR 51164, the proposed regulation explains that the list of programs included in the rule was identified, in large part based on levels of Federal government expenditures. However, it is inappropriate and outside of DHS's authority for the agency to try to reduce spending in other federal agencies by trying to discourage people from using benefits that Congress intended that they be able to access. Whether or not there are large government expenditures in particular programs is irrelevant to whether a particular individual may become a public charge. Under the INA, a public charge determination must be an individualized assessment, and reduction of government expenditures on other programs that Congress has authorized is not an appropriate consideration.

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. As noted previously, 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. Survivors’ ability to meet basic needs is central to their decision-making about whether or not they can leave abusive relationships. For example, two-thirds (67%) of survivors surveyed said that they stayed longer than they had wanted or returned to abusive relationships because of financial concerns, such as not being able to pay bills, afford rent/mortgage, or feed their families.  

The Centers for Disease Control has concluded that improving financial security for individuals and families can help reduce and prevent intimate partner violence. 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

API-GBV opposes consideration of the utilization of the named housing programs at proposed 212.21(b)(1)(ii)(B) and (C) in making a public charge determination. The proposed rule fails to account for the harms that will be caused by including housing programs as a program to be considered for public charge purposes. 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. Housing assistance is a critical resource for survivors, giving them the security that they need to leave violent or exploitative relationships without having to fear that doing so will result in homelessness, as well as providing a safe environment to begin their recovery. For many domestic violence survivors, the lack of economic independence can be devastating, as evidence suggests that domestic violence is among the leading causes of homelessness nationally for women.

For many survivors, the decision to leave abuse hinges on the question of where they will live. Between 22 and 57% of all homeless women report that domestic violence was the immediate cause of their homelessness, and victim service providers, advocates, and allies across the United States report that survivors became homeless as a result of sexual violence. 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. Without housing, sexual assault victims report that other services to address the violence were not likely to be helpful.

In addition, having safe and stable housing is crucial to survivors’ physical and mental health, and obtaining and sustaining employment, which are critical to overcoming the trauma of abuse. For survivors’ children, many of whom are U.S. citizens, stable housing is also critical for them to overcome the trauma of living in abusive homes. Research has shown that economic and housing instability harms, leading to poorer life outcomes as

Lack of stable housing is also correlated to decreases in student retention rates, and contributes to homeless students’ high suspension rates, school turnover, truancy, and expulsions, limiting students’ opportunity to obtain the education they need to succeed later in life. Housing assistance provides the answer that survivors and their children need, and creates a pathway to safety.

**Supplemental Nutrition Assistance Program (SNAP)**

API-GBV also opposes the inclusion of SNAP at proposed 212.21(b)(1)(ii)(A) as a program listed for consideration in a public charge determination. The proposed rule fails to recognize that many people receive SNAP benefits as a supplement to their employment earnings. The inclusion of SNAP is inconsistent with the SNAP statute which states that "the value of benefits that may be provided under this chapter shall not be considered income or resources for any purpose under any Federal, State, or local laws," and inconsistent with Congressional intent to expand SNAP eligibility to immigrant children.

Furthermore, the proposed rule fails to account for the harms that will be caused by the inclusion of 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 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. 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 Benefits**

In addition, API-GBV opposes the inclusion of Medicaid programs and Medicare Part D at proposed 212.21(b)(2) as program identified for consideration in a public charge determination. The proposed rule fails to recognize the prevalence and reality of low-wage work in the U.S. and the fact that only one-third of low-income workers, i.e., those who earn the bottom 25% of the earnings have access to employer-sponsored insurance.

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62 7 USC §2017(b), (Benefits not deemed income or resources for certain purposes)

through their workplace.\textsuperscript{64} The rule tries to justify the inclusion of Medicaid based on the high costs of health care, but does not recognize that immigrants use less health care, on average, than U.S. born residents.\textsuperscript{65}

The proposed rule also fails to account for the harms that will be caused by the inclusion of Medicaid. For example, the Migration Policy Institute has estimated that 1.4 million AAPIs who are not U.S. citizens are members of families who rely on Medicaid and CHIP.\textsuperscript{66} This includes 182,000 children. While the proposed rule provides certain exemptions, such as services received for an “emergency medical condition” and those provided under the Individuals with Disabilities Education Act (IDEA), through school-based benefits provided under Medicaid from consideration in the public charge determination, or benefits provided to certain children of U.S. citizens or children in the process of adoption will not be counted, these program provisions are confusing and too complicated to actually mitigate the harm.

Furthermore, access to Medicaid and other health care programs provide a critical lifeline for survivors of domestic violence, sexual assault, and human trafficking in 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.\textsuperscript{67}

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{68} 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{69} Survivors are also more likely than others to need health, mental and behavioral health services because of increased risk for suicide, depression, anxiety, posttraumatic

\textsuperscript{69} S. Goodman, \textit{Supra}, Note 63, at 11
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 community-based victim services.

The proposed rule exacerbates the harmful health impacts of domestic violence and sexual assault. Survivors of domestic and sexual 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 and Medicare Part D benefits be excluded from the final rule.

Children’s Health Insurance Program (CHIP)

At 83 FR 51174, the Department specifically requests comment on whether the Children’s Health Insurance Program (CHIP) should be included in a public charge determination. For many of the same reasons that we oppose the inclusion of Medicaid, API-GBV opposes the inclusion of CHIP in consideration in a public charge determination in the final rule.

CHIP is a health insurance program for children in working families who have too high of an income 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. The Department would be contravening Congressional intent by including the Children’s Health Insurance Program (CHIP) in the list of public benefits considered in the public charge test in the final rule. As mentioned previously, Congress’ explicitly intended to expand coverage to lawfully present children and pregnant women in §214 of the 2009 Children’s Health Insurance Program Reauthorization Act (CHIPRA). Under CHIPRA states can cover lawfully residing children and pregnant women under Medicaid and CHIP during their first five years in the U.S. with regular federal matching dollars. This was enacted because Congress recognized the public health, economic, and social benefits of ensuring that these populations have access to care.

Including CHIP in a public charge determination would likely lead to many eligible children foregoing health care benefits, both because of the direct inclusion in the public charge determination as well as the chilling effect detailed elsewhere in these comments. Nearly 9 million children across the U.S. depend on CHIP for their health care. Due to the chilling effect of the rule, many eligible citizen children likely would forego CHIP—and health care services altogether—if their parents think they will be subject to a public charge determination.
Continuous, consistent and uninterrupted coverage is particularly critical for young children, as experts recommend 16 well-child visits before age six, more heavily concentrated in the first two years, to monitor their development and address any concerns or delays as early as possible.\(^{70}\) As noted by the Center for Children and Families: A child’s experiences and environments early in life have a lasting impact on his or her development and life trajectory. The first months and years of a child’s life are marked by rapid growth and brain development.\(^{71}\) 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.

The benefits of excluding CHIP and Medicaid certainly outweigh their inclusion in a public charge determination. We recommend that DHS continue to exclude CHIP from consideration in a public charge determination in the final rule but also exclude receipt of Medicaid for the same reasons.

**Cash Assistance**

At Section 212.22(d), DHS states that it will consider as a negative factor any amount of cash assistance for income maintenance, including Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), State and local cash assistance programs that provide benefits for income maintenance (often called “General Assistance” programs), and programs (including Medicaid) supporting aliens who are institutionalized for long-term care, received, or certified for receipt” received before the effective date of the final rule. (Emphasis added.) However, under the prior 1999 Public Charge guidance, only receipt of such benefits to the extent that an individual was primarily dependent upon them for subsistence was considered. The proposed regulation does not make any justification for the inclusion of these benefits, other than their monetary value, most likely because they may already be considered under the 1999 guidelines already in place to determine public charge. However, the change from only considering these programs when individuals are “primarily dependent” on them, to counting them when someone receives as little as $1,821 per year, even if combined with income from employment, means that further justification is needed. Since 1999, individuals have relied upon this guidance, including based on advice from counsel, and API-GBV strongly opposes retroactively changing the standard such that the receipt of even a modest amount of benefits by someone with other income sources could count against them. The 1999 Guidance, in its entirety, should be applied to any receipt of benefits prior to the effective date of the final rule. Changing the standard regarding the


\(^{71}\) Id.
amount of cash benefit received in the public charge determination will be detrimental to survivors and their ability to escape and recover from abuse.

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 re-stabilizing their lives and achieving self-sufficiency. In a 2017 survey of service providers and victim advocates 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.

Other benefits
At 83 FR 51173, DHS asks for comment about unenumerated benefits, including whether additional programs should explicitly be counted in the public charge determination, and whether use of other benefits should be counted in the totality of circumstances. API-GBV strongly opposes adding any additional programs to those already counted under the 1999 guidance, including the list of counted programs to be considered in this proposed regulation, and we oppose considering the use of non-listed programs in any way in the totality of circumstances test.

Survivors of domestic violence, sexual assault, and human trafficking should not be discouraged from seeking and utilizing the assistance they need to escape and recover from the harm they have experienced. The programs enumerated in the proposed rule already go far beyond what is reasonable to consider and will harm millions of families, including those made up of survivors of domestic and sexual violence. Adding any more programs would increase this harm as well as have larger public safety and health considerations for communities at large. No additional programs should be considered in the public charge determination.

72 Id. At 13
In addition, at 83 FR 51174, the DHS seeks comments on public charge determinations for non-citizen children under age 18 who receive one or more public benefit programs. API-GBV strongly believes that receipt of benefits as a child should not be taken into consideration in the public charge determination for multiple reasons. First, doing so provides little information on their likelihood of receiving benefits in the future. Second, receipt of benefits that reduces toxic stress in children’s lives, supports children’s health, alleviates hunger, and provides for children to live in stable families and succeed in school will contribute to the development of adults who grow up and contribute to their communities. The value of access to public benefits in childhood has been documented repeatedly. Safety net programs such SNAP and Medicaid have short and long-term health benefits and are crucial supports to prevent of multi-generational cycles of poverty.74

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

Heavily weighed factors
The heavily-weighted negative factors described at proposed section 212.22(c) will disproportionately harm survivors of domestic violence, sexual assault, and human trafficking. DHS fails to provide any basis for weighing some factors more heavily than others. The public charge determination was designed to be a confined tool to identify individuals likely to become primarily dependent on the government for support. The test was never designed or intended to prevent the admission of low- and moderate-income individuals that may at some point need access to public program, i.e, to help survivors of domestic and sexual violence escape and recover from abuse, which allows them to help them continue working.

In addition, the proposed rule only identifies one heavily weighed positive factor – that the household has or will make at least 250% of the Federal Poverty Guidelines, meaning that low- and middle-income families will not have the benefit of a heavily weighed positive factor as part of their calculation to offset any negative factors.

Domestic violence abusers, sexual assault perpetrators, and human traffickers 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.75 Victims who might not have previously been considered low-

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74 M. Page, Safety Net Programs Have Long-Term Benefits for Children in Poor Households, University of California, Davis, (2017), Available at: https://poverty.ucdavis.edu/sites/main/files/file-attachments/cpr-health_and_nutrition_program_brief-page_0.pdf.

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.\textsuperscript{76}

Examples of the detrimental impact of the heavily weighted negative factors include, but are not limited to, the following:

**Proposed section 212.22(c)(1)(i) Not a full-time student/ authorized to work, unable to demonstrate current employment/no employment history/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.\textsuperscript{77} Half of women who experienced sexual assault had to quit or were forced to leave their jobs in the first year after the assault.\textsuperscript{78} Total lifetime income loss for sexual assault survivors who experienced rape during adolescence is estimated to be nearly $250,000 each,\textsuperscript{79} with an estimated cost of $1,611,298,780,921 in lost productivity to the overall U.S. population.\textsuperscript{80} By heavily weighting this factor, the proposed rule doubly penalizes a victim for the economic abuse that domestic violence and sexual assault abusers perpetrate.

**Proposed section 212.22(c)(1)(ii) Use of public benefits**

As stated previously, access to public assistance programs and other safety net benefits play a pivotal role in a victim’s ability to escape and overcome domestic violence, sexual assault, and human trafficking, and rebuild their lives after violence. DHS’ proposal to heavily weigh receipt of public benefits – including benefits previously considered under the 1999 public charge guidance – is deeply problematic and inconsistent with the plain meaning of the INA’s totality of the circumstances test. Even if someone has received cash assistance or long-term care at government expense, DHS must assess the

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individual’s overall circumstances with respect to the future likelihood of the applicant becoming a public charge.

At \textit{83 FR 51200}, DHS asks whether 36 months is the appropriate look-back period for considering previous use of public benefits and whether a shorter or longer timeframe would be better. We strongly oppose any arbitrary lookback period for use of public benefit programs. Inclusion of a retrospective test is fundamentally inconsistent with the forward-looking orientation of the public charge determination. Past use of a government-funded program is not necessarily predictive of future use, and can serve as the initial stepping stone for a survivor’s future self-sufficiency. Furthermore, if the specific circumstances that led to the use of public benefits, such as injury, trauma, or homelessness related to domestic or sexual violence or exploitation no longer apply, the previous use of benefits is irrelevant.

Proposed section 212.22(c)(iv)(A) Medical condition requiring extensive medical treatment/institutionalization/interferes with ability to provide for self/attend school, or work As described previously, API-GBV strongly opposes this provision of the proposed rule. Domestic violence, sexual assault, and human trafficking is linked to many long-term physical and mental health problems. In addition to the immediate trauma and injuries caused during violent incidents, domestic and sexual violence contribute to a number of chronic health problems, including depression, alcohol and substance abuse, and sexually transmitted diseases such as HIV/AIDS, and often limits the ability of women to manage other chronic illnesses such as diabetes and hypertension.\textsuperscript{81} Physical and psychological abuse are linked to a number of adverse physical health effects including arthritis, chronic neck or back pain, migraine and other frequent headaches, stammering, visual problems, sexually transmitted infections, chronic pelvic pain, and stomach ulcers.\textsuperscript{82} Again, by heavily weighting this factor, the proposed rule doubly penalizes a victim for the physical and psychological injuries caused by domestic and sexual violence perpetrators and human traffickers.

(2) Heavily weighed positive factors

Proposed section 212.22(c)(2) f assets, resources, and support of at least 250 percent of the FPG or income of at least 250 percent of the FPG for the household The proposed 250 percent FPL threshold disregards the fundamental meaning of public charge, as well as the efforts and contributions of many workers. A standard of 250 percent of the FPL is nearly $63,000 a year for a family of four -- more than the median household income in


the U.S. According to Bureau of Labor Statistics (BLS) data, the seasonally adjusted annual mean wage for private, nonfarm occupations was less than $50,000 in October, 2018 - below 250 percent FPL for a three-person household. Among production and nonsupervisory workers, mean wage was just over $40,000 - less than 250 percent FPL for a household of two. Indeed, 61% of recently admitted lawful permanent residents did not meet the 250% FPL threshold.

As noted previously, the 250% threshold means that survivors who find themselves with limited or moderate income or assets, often as a consequence of the injury or abuse they suffered, will not have the benefit of a heavily weighed positive factor as part of their calculation to offset any negative factors.

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

The increased barriers to admission and adjustment of status in the proposed public charge rule will likely also harm survivors of domestic violence, sexual assault, and human trafficking, including those with U.S. citizenship, or who have already obtained lawful status, by barring entry for supportive family members. Parents, siblings, fiancés, children, and sons and daughters seeking admission or adjustment of status can serve as critical sources of emotional, financial, and physical 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 often 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 proposed 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 vital to overcome the trauma of abuse. The proposed public charge rule will only serve to undermine or prolong a survivor’s recovery process.


6) The proposed rule will lead to significant short and long-term costs for states, localities, service providers, and society at large.

By proposing to change the public charge rule in such a drastic way, states and localities, victim advocacy providers, human and health service providers, and entire communities are likely to experience significant costs. Such costs include increases in costs for social services such as emergency food banks, domestic violence and homeless shelters and other safety net resources, as individuals may decide to not apply for the public benefits they are eligible to receive. Additionally, they may see increased uncompensated health care costs from overutilization of emergency room for medical care, as well as increased caseloads in the child welfare system. These increased costs are ones that States, county, and city budgets would need to address funding to cover these costs would limit their ability to cover other needed public services, such as public education or transportation.

At 83 FR 51270, in the cost-benefit analysis section, DHS acknowledges that the rule could lead to “worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children... increased prevalence of communicable diseases...increased rates of poverty and housing instability; and reduced productivity and educational attainment.” Yet DHS fails acknowledge how extensive these impacts would be, particularly for survivors of domestic violence, sexual assault, and human trafficking, and their families.

The proposed rule changes will limit a survivor’s ability to access concrete supports and services that allow them to leave an abusive home, access physical and mental health care to treat the injuries they’ve suffered, and other critical services to support their safety and well-being. As a result, victims and their children will likely continue suffer from, or be exposed to domestic and sexual violence, with increased injury, and with long-lasting physical, mental, and financial after-effects. Children who live in homes where domestic violence is present have been shown to display a variety of bio-psycho-social deficiencies, including: increased levels of anxiety, behavior problems, decreased performance in school, aggression, somatic complaints, depression, greater acceptance of violence as a means of resolving conflict, increased risk of long-term delinquent behavior and criminal activity.

Furthermore, as a result of the withdrawal from safety-net supports, survivors risk falling deeper into economic difficulty and they and their children will not have access to needed supports that promote recovery and well-being. The proposed rule would also undermine the ability of survivors to maintain employment that helps support economic self-sufficiency. There is extensive research demonstrating positive long-term effects of

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receipt of public benefits such as, but not limited to, SNAP and Medicaid. In particular, the use of these benefits often enables low-wage (and other) workers to remain employed.\footnote{See, e.g., M. Desmond, C. Gershenson, \textit{Housing and Employment Insecurity Among the Working Poor}, Social Problems, (2016) Available at: https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson_sp2016.pdf?m=1452638824; National Women’s Law Center, \textit{Medicaid Is Vital for Women’s Jobs in Every Community}, (2017), Available at: https://nwlc.org/resources/medicaid-is-vital-for-womens-jobs-in-every-community/; Center On Budget and Policy Priorities, \textit{Chart Book: The Far-Reaching Benefits of the Affordable Care Act’s Medicaid Expansion}, (2018) Available at: https://www.cbpp.org/research/health/chart-book-the-far-reaching-benefits-of-the-affordable-care-acts-medicaid.} This is because it is highly challenging, if not impossible, for women working in many low-wage jobs to support themselves and their families on their wages alone. Thus, the proposed rule’s counting SNAP, non-emergency Medicaid, and housing assistance against individuals for the purposes of a public charge determination will likely make it more difficult for immigrant survivors to be self-sufficient.

\textbf{Burden on Victim Service Providers}

The rule’s impact will not be limited to immigrant victims and their families. Victim advocates will have to be prepared to address questions about the new rule in conducting safety planning with victims. They will also have to update victim information materials, to ensure that they are providing victims with accurate information about the potential consequences of receiving certain public assistance. Of particular concern for domestic violence, sexual assault and human trafficking victim advocates, will be that they need to familiarize themselves with the myriad of funding sources for the variety of supports, such as housing and medical programs, that they assist victims with in accessing in order to provide informed information for victim safety-planning. These are significant administrative costs that have been placed on victim advocacy programs that is completely unaccounted for in the rule.

Furthermore, the rule would generate an increased workload for already often overburdened victim advocates and other service providers who will be helping support individual immigrant victims with obtaining the documentation regarding their history of public benefits receipt. The draft form I-944, Declaration of Self-Sufficiency instructions provided with the NPRM, directs individuals to provide documentation if they have ever applied for or received the listed public benefits in the form of “a letter, notice, certification, or other agency documents” that contain information about the exact amount and dates of benefits received.\footnote{Dep’t Homeland Security, \textit{Form I-944, Instructions for Declaration of Self-Sufficiency} (2018), https://www.regulations.gov/document?D=USCIS-2010-0012-0047.} Assisting survivors with obtaining this documentation will create a significant administrative burden for victim advocates and other service providers, many of which are not well-equipped to respond to these queries.

Additionally, domestic violence and human trafficking emergency shelter and transitional-housing providers are anticipating that the chilling effect of this rule will result in many eligible immigrant victims choosing to forgo public benefits, including cash, medical, food, housing assistance, leading to longer utilization of emergency shelter
and housing programs, resulting to increased turn-aways for other domestic violence victims. Again, these costs and burdens on service providers are not addressed in the rule. DHS should partner with HHS and HUD to perform a comprehensive study on the impact the public charge rule will have on domestic violence and shelter and housing providers and victim advocacy organizations more generally, before finalizing the proposed rule.

Proposed Section 245: Adjustment of Status to that of a Person Admitted for Permanent Residence
The proposed rule would require DHS to process Forms I-944, Declaration of Self-Sufficiency, in connection with an estimated 382,264 adjustment of status applications annually. API-GBV opposes the requirement of this overly broad form which will be an impossible burden for many applicants and will deepen existing processing delays. As previously noted, the draft I-944 instructions direct applicants to provide documentation regarding any of listed public benefits they have ever applied for or received in the form of “a letter, notice, certification, or other agency documents” detailing the amount and dates of benefits received. This requirement does not include any minimum thresholds on the quantity of, or duration of benefits received. Nor does the form include a provision limiting information required to benefits received after effective date of final public charge regulation. With no time limit, it is highly unlikely that applicants still possess old notices from benefits-granting agencies, meaning they will need to contact the agency that administered the benefit to obtain documentation. In many cases, this will require a special request to the benefits-granting agency to prepare replacement or summary documents. This will generate an increased workload for benefits-granting agencies and may require access to information that has been archived from no longer functional eligibility systems that have been replaced. These increased costs have budgetary implications that will negatively impact the delivery of benefits and services to other individuals.

DHS estimates just 4½ hours per applicant to file Form I-944 and to receive certified documents. However, this appears to be greatly underestimated. In addition to preparing the I-944 and gathering supporting documentation from benefits-granting agencies, attorneys and advocates will need to spend significantly more time to advise, document, and complete forms, as the public charge assessment will be significantly more complex.

In addition, requiring a Declaration of Self-Sufficiency for individuals seeking adjustment of status to lawful permanent residence would consume significant USCIS resources and exacerbate existing delays in immigration benefit form processing. The increased workload would fall on an agency that already faces significant capacity shortfalls. With almost 6 million pending applications as of March 31, 2018, DHS has

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92 E. M. Fisher, A.M. Stylianou To Stay or to Leave: Factors Influencing Victims’ Decisions to Stay or Leave a Domestic Violence Emergency Shelter, Journal of Interpersonal Violence 1–27 (2016) (one primary factor influencing participants’ decisions to stay or leave domestic violence shelters was affordability of alternative options) DOI: 10.1177/0886260516645816

conceded that USCIS lacks the resources to timely process its existing workload. In fact, processing times for many of the agency’s product lines has doubled in recent years.

These processing delays have significant impacts on the lives of immigrant survivors and their U.S. citizen families. Lengthy wait times can result in victims remaining in or returning to abusive or exploitative relationships due to lack of resources, losing their jobs, thus depriving their families of income essential to necessities like food and housing. Delays also prolong family separation for those awaiting case approval for their reunion. Despite DHS’ admission of USCIS’s inability to accommodate its existing workload, the proposed rule would substantially burden the agency’s lack of capacity and worsen USCIS case processing delays.

Conclusion

For the reasons detailed in these comments regarding the harm that the proposed public charge rule will have on survivors of domestic violence, sexual assault, and human trafficking 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 on 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 existing guidance.

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95 USCIS, Historical National Average Processing Time for All USCIS Offices, 2018, Available at: https://egov.uscis.gov/processing-times/historic-pt.


The Asian Pacific Institute on Gender-Based Violence urges DHS to withdraw the proposed rule and to advance policies and guidance that protect the health, safety, and best interests of survivors of domestic violence, sexual assault, and other trauma and their families. Please contact me if you have any questions or concerns relating to these comments. Thank you.

Respectfully submitted,
ASIAN PACIFIC INSTITUTE ON GENDER-BASED VIOLENCE

GRACE HUANG
Policy Director
December 10, 2018

Samantha Deshommes, Chief,
Regulatory Coordination Division
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
Submitted via www.regulations.gov

Dear Ms. Deshommes:


ASISTA is a national organization dedicated to safeguarding and advancing the rights of immigrant survivors of violence. ASISTA worked with Congress to create survivor-based forms of immigration relief through the Violence Against Women Act (VAWA). For 15 years, ASISTA has provided attorneys and advocates nationwide with valuable resources to help survivors access the services and status they need to achieve safety and independence.

We stridently oppose the proposed rule. The public charge grounds of inadmissibility do not apply to certain immigration benefits, among them survivor-based protections such as VAWA self-petitions and U and T visas. But the proposed rule will disproportionately impact a wide range of immigrant survivors of domestic violence, sexual assault, human trafficking and other crimes. For this reason, we call on DHS to immediately withdraw the proposed rule. Such a drastic change in policy will deter survivors from accessing the services and programs they need to escape and overcome violence.

A. The proposed rule will harm survivors of domestic violence, sexual assault and human trafficking and impede their safety and self-sufficiency.

A bipartisan majority in Congress created survivor-based forms of immigration relief, most notably VAWA-self petitions and U and T visas, recognizing that survivors may not be willing to reach out for help because their abusers threaten them with removal if they contact the justice system. As part of its efforts to stop manipulation of our immigration system by abusers, rapists and human traffickers, Congress created an exception to the public charge ground of inadmissibility for these forms of relief.

The proposed rule may, however, apply to family members sponsored by survivors or to other family members living in their households. In addition, many survivors of domestic violence, sexual assault and human trafficking pursue other routes to secure immigration status which lack such explicit exceptions. Survivors in the U.S. on student or employment-based visas may encounter additional barriers to safety because of this proposed rule, as will survivors who seek lawful permanent residence based on applications or petitions that are not specifically designed for crime survivors.

The chilling effect has already begun: Immigrant families are withdrawing from programs for which they are eligible due to fear of detrimental consequences to their status. Deterring survivors and their children from seeking the benefits they need to escape violence is deeply significant and distressing.

1. The proposed rule will discourage survivors from accessing critical benefits programs

The proposed rule expands the range of public assistance programs that will count against a person in deciding whether someone is likely to become a public charge, including Medicaid, Supplemental Nutrition Assistance Program (SNAP), housing assistance and others.

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2 See H.R. REP. NO. 103-395, at 26-27 (1993) (stating “Consequently, a battered spouse may be deterred from taking action to protect him or herself, such as filing for a civil protection order, filing criminal charges, or calling the police, because of the threat or fear of deportation. Many immigrant women live trapped and isolated in violent homes, afraid to turn to anyone for help. They fear both continued abuse if they stay with their batterers and deportation if they attempt to leave”). See also Section 1513(a)(2)(A), Public Law No: 106-386, 114 Stat. 1464 (2000) (indicating that Congress created the U and T visa program to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking...and other crimes...committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.”)

3 See e.g. INA § 212(a)(4)(E)(i); INA § 212(a)(4)(E)(ii), INA § 212(d)(13)(A);


The proposed rule would also count receipt of these benefits as a heavily weighted negative factor, completely discounting the reasons why these benefits may be necessary in the first place.

What the proposed rule ignores is that benefit programs are often essential for survivors given the well-established and acute connection between poverty and domestic violence. Access and use of these benefits may make the difference in whether survivors and their children can escape abuse. DHS should not put survivors in the position of choosing between their immigration status and their ability to survive after abuse.

Domestic and sexual violence is pervasive nationwide—with one in three women and one in six men experiencing some form of sexual violence in a lifetime and more than 12 million men and women experiencing rape, physical violence, or stalking by an intimate partner each year in the United States. While intimate partner violence permeates all income levels, “there are unique challenges and barriers at the intersection of these forms of violence and economic disadvantage.” Research cited by the Centers for Disease Control and Prevention (CDC) indicates that intimate partner victimization is associated with economic, food and housing insecurity.

To maintain power and control over their victims, abusers typically prevent survivors from accessing or acquiring financial resources on their own. Survivors may be forced to stay with abusers because they depend on them for financial support or housing. In one study, 99% of domestic violence victims reported experiencing economic abuse. A recent survey by the National Domestic Violence Hotline (The Hotline), National Resource Center on Domestic Violence and Casa de Esperanza: National Latin@ Network found that “two-thirds (67%) of

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5 See Proposed Rule at 51198 and 51199.


10 This is known as economic or financial abuse, which is “behavior that seeks to control a person’s ability to acquire, use, or maintain economic resources, and threatens their self-sufficiency and financial autonomy.” NNEDV. “Financial Abuse Fact Sheet” https://nnedv.org/?mdocs-file=10108; See also “https://www.huffingtonpost.com/2014/10/21/domestic-violence_n_6022320.html

survivors surveyed said that they stayed longer than they wanted or returned to an abusive relationship because of financial concerns, such as not being able to pay bills, afford rent/mortgage, or feed their family.” The survivors surveyed shared the following experiences with access to benefits:

- “When I was in an abusive relationship, I was unable to work outside of the home at all. I would have died without public benefits.”

- “When trying to break free from an abuser, it may take us a long time to find our footing again. Without public assistance, this would not be possible.”

- “If public benefits were not available, my children and I would have had to stay with the abuser.”

Similarly, nearly 80% of advocates surveyed by the National Resource Center on Domestic Violence reported that “most domestic violence victims rely on SNAP to help address their basic needs and to establish safety and stability.” Furthermore, “55% of respondents report that most sexual assault victims need SNAP to establish safety and stability.” In terms of other benefit programs, one advocate reported:

“Access to housing assistance is critical for DV survivors. Without it, they often struggle to both afford a place to live and with finding landlords willing to rent to them. Access to Medicaid is equally valuable, as health care is another benefit many survivors cannot afford as they leave abusive relationships and may be facing multiple physical and mental health challenges stemming from exposure to long-term abuse.”

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12 See Note 8 at 14.
13 See Note 8 at 5.
15 Id. at 3.
16 Id. at 11.
This statement is supported by ample evidence showing that domestic violence is also one of the leading causes of homelessness for women in the United States. Resources from the Department of Housing and Urban Development state:

“Survivors of violence face complex barriers to shelter and housing that are caused by the power and control dynamics of abuse, which result in financial instability, lasting trauma, and a need for safety and confidentiality. These factors are exacerbated for marginalized and vulnerable communities, such as persons of color and persons living in rural areas. Housing and supportive services are critical interventions that play major roles in trauma recovery and long-term stability.”

For these reasons, it is imperative that immigrant survivors of domestic and sexual violence and human trafficking be able to access and use public benefits programs without fear of negative immigration consequences. We oppose DHS’ expansion of the types of benefits that could result in a public charge determination and its consideration of an individual’s use of public benefits as a heavily weighted negative factor.

B. The Proposed Rule Exacerbates the Harm Survivors have Experienced

Abusers and perpetrators of crime cause significant physical, emotional and financial injury to survivors, which increases the likelihood that the new approach to public charge ground will apply to survivors. This section will discuss how certain negative factors created in the proposed rule’s totality of the circumstances framework will create additional barriers and hardship for survivors.

1. Fee Waivers

Under the proposed rule, a survivor’s use of a fee waiver would be counted as a negative financial status factor, as the proposed rule indicates that “requesting or receiving a fee waiver

17 Department of Housing and Urban Development “Point in Time Count of Homeless Persons: Engaging with Domestic Violence Survivors: What CoCs Need to Know” available at https://www.hudexchange.info/resources/documents/PIT-and-DV-What-CoCs-Need-To-Know.pdf See also Amber Clough et al. “Having Housing Made Everything Else Possible”: Affordable, Safe and Stable Housing for Women Survivors of Violence” (2014), available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4196210/ (stating For women who have experienced intimate partner violence, access to safe housing and economic resources are two of the most pressing concerns for those who are planning to or have recently left abusers)

for an immigration benefit suggests weak financial status. Since fee waivers are based on an inability to pay, a fee waiver for an immigration benefit suggests an inability to be self-sufficient.”

While certain survivor-based protections are statutorily required to have access to fee waivers, fee waivers are critical for survivors with other immigration benefits as well. Again, the proposed rule demonstrates that DHS is not considering the context in which individuals may be facing economic hardship. Survivors may be fleeing abuse and may not have resources to pay for fee-based forms. Through the proposed rule, DHS is now creating unnecessary barriers for survivors who have an economic need.

2. Medical Conditions

The proposed rule would also count as a negative factor the “presence of a medical condition that is likely to require extensive medical treatment or institutionalization, or that will to interfere with the alien's ability to care for him- or herself, to attend school, or to work or whether an individual is uninsured and has neither the prospect of obtaining private health insurance, or the financial resources to pay for reasonably foreseeable medical costs related to the medical condition.”

Survivors often face a myriad of short and long-term health consequences from as a result of the abuse they have endured. A study by the CDC found that more than 550,000 injuries due to IPV require medical attention each year. Intimate partner violence (IPV) can cause various physical health problems, including but not limited to circulator conditions, digestive issues, cardiovascular disease, chronic pain syndromes, central nervous system disorders, migraines and headaches. IPV can also cause reproductive issues including but not limited to gynecological disorders, sexually transmitted infections, unintended pregnancies, problems during pregnancy and delayed prenatal care.

19 Proposed Rule at 51188.
21 Proposed Rule at 51217.
24 Id.
The CDC also reports that “physical violence is typically accompanied by emotional or psychological abuse. IPV—whether sexual, physical, or psychological—can lead to various psychological consequences for victims” which can include anxiety, depression, symptoms of post-traumatic stress disorder (PTSD), sleep disorders and other issues.\(^{25}\)

Thus, survivors of domestic or sexual violence or human trafficking may have complex and multiple health concerns as a result of their victimization. They may not have access to private health insurance, nor the financial resources to pay for the costs related to the injuries they have suffered. “Poverty and economic instability may make it more difficult to cope with the physical, psychological, and financial impacts of domestic violence and sexual assault.”\(^{26}\) In establishing this criteria as a negative factor, the proposed rule completely ignores the economic and health consequences that survivors of domestic and sexual assault and human trafficking often endure.

3. Employment History

The proposed rule indicates that as long as an individual “is not a full-time student and is authorized to work, DHS proposes that the absence of current employment, employment history, or reasonable prospect of future employment will be a heavily weighted negative factor.”\(^{27}\)

Again, DHS disregards the reality that many survivors face. “Victims may struggle to meet basic needs and are left trapped – and economically vulnerable – in an abusive relationship or otherwise unsafe situation. Ending an abusive relationship may mean losing not only access to a partner’s income, but also housing, employment, health care, or child care.”\(^{28}\)

Survivors of domestic violence and sexual assault may lose their jobs due to intense trauma, reduced productivity, harassment at work by perpetrators, and other reasons stemming from...

\(^{25}\) Id.


\(^{27}\) Proposed Rule at 51198.

\(^{28}\) See Note 14 at 6. [Emphasis added]
the violence. A survey of survivors conducted by the Maine Department of Labor indicated that abuse affected a survivor’s “performance and productivity, including being constantly harassed at work, delayed getting to work, or prevented from going to work. As a result, 60 percent of victims in the study reported having either quit their job or being terminated as a result of the abuse.”

Secure immigration status can help survivors access employment opportunities, escape violent relationships and help alleviate the trauma they have suffered. Yet through the proposed rule, DHS is setting up barriers for survivors to achieve the very thing DHS purports to value—self sufficiency. DHS must not ignore the supportive and protective effects of stable immigration status for survivors.

C. The proposed rule inaccurately states the law, which already provides for a public charge exemption for trafficking victims when applying for a T Visa or T Visa-based Adjustment of Status

The Trafficking Victims Protection Act of 2000 (TVPA) explicitly created a waiver of the public charge ground for T Visa applicants. The TVPA likewise allowed the Attorney General to waive the public charge inadmissibility ground for any T Visa holder seeking to adjust status to that of a permanent resident.

Congress has continued to expand protections and services for trafficking survivors. In the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Congress added trafficking survivors to the list of “qualified aliens” eligible for federal, state and local public benefits. And, in the subsequent 2013 reauthorization, Congress amended the public charge provision by adding qualified aliens to the list of individuals completely exempt from the public charge ground. In other words, this amendment made even clearer that both individuals applying for and persons already granted T Visas are exempt from the public charge ground of

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32 Pub. Law 106-386 Sec. 107(e)(3).
33 Pub. Law 106-386 Sec. 107(f).
34 Pub. Law 110-457 Sec. 211 and codified at 8 § U.S.C. 1641(c).
35 Pub. Law 113-4 Sec. 804 and codified at 8 § U.S.C. 1641(c). [Emphasis added]
inadmissibility. The ground should not apply, therefore, to individuals who have been granted T visas seeking adjustment of status to lawful permanent residency.

Conclusion

The proposed rule would alter the existing public charge framework drastically. It would deter (and has already deterred) immigrant families from seeking and utilizing benefits for which they are eligible to help support their basic needs. The proposed rule undermines the gains our country has made to protect survivors of domestic violence, sexual assault and human trafficking.

We instead urge that the current guidance around public charge remain in effect. ASISTA urges DHS to withdraw the proposed rule and instead to advance policies and guidance that protect the health, safety, and best interests of survivors and their families.

Respectfully submitted,

Cecelia Friedman Levin
Senior Policy Counsel, ASISTA
November 26, 2018

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 the California Partnership to End Domestic Violence, “the Partnership”, 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.” The Partnership has grave concerns regarding the immense harm that the proposed public charge rule will have on immigrant survivors of domestic violence and sexual assault.

The California Partnership to End Domestic Violence is California’s recognized domestic violence coalition, representing over 1,000 advocates, organizations and allied individuals across the state. Working at the local, state and national levels for nearly 40 years, the Partnership believes that by sharing resources and expertise, advocates and policymakers can end domestic violence.

As the statewide domestic violence coalition for the most populous and most diverse state, this is an issue of particular importance for us, our member organizations, and the survivors they serve. In California there are over 10 million non-citizen individuals and their family members who may be deterred from seeking the services they need as a result of this rule, including over 3.6 million non-citizens and their family members with an income less than 125% of the federal poverty line, and therefore particularly vulnerable to the impacts of this proposed rule.

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. 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 and more than 12 million men and women experiencing rape, physical violence, or stalking by an intimate partner each year in the United States. In any given year, estimates suggest that 725,000 women in California will experience sexual violence, physical violence, or stalking by an intimate partner, and across a lifetime nearly 5 million women will experience this violence. Every day, survivors seek services and safety from domestic violence organizations. In fiscal year 15-16, programs provided 638,320 bednights for 19,750 victims and their children; answered 174,575 hotline calls; provided 26,549 victims and their children emergency food and clothing; and provided individual counseling services to 43,386 new victims.

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 for individuals and families can help reduce and prevent intimate partner violence. 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. 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, and victim service providers, advocates, and allies across the United States report that
survivors became homeless as a result of sexual violence. 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. Without housing, sexual assault victims report that other services to address the violence were not likely to be helpful. 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 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. 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 healthcare 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. 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. 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. 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. 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 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.

1107 9th Street, Suite 910, Sacramento, CA 95814 Phone: 916-444-7163 Fax: 916-444-7165 www.cpedv.org
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.

Hindering Access to Economic Supports Undermines Survivor Safety
As this data illustrates, economic resources play a critical role in supporting women’s safety. 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.

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. 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.

The heavily-weighted negative factors described in the proposed rule will disproportionately harm survivors of domestic violence and sexual assault. 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 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.

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.

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 me directly to provide further information. I can be reached at krista@cpedv.org or (916) 444-7163.

Sincerely,
Krista Niemczyk
Public Policy Manager
California Partnership to End Domestic Violence
November 20, 2018

Submitted via www.regulations.gov

Samantha Deshommes, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Sir/Madam:

I am writing on behalf of End Domestic Abuse WI and the 67 local domestic violence programs who serve approximately 40,000 victims of domestic abuse in Wisconsin each year. In response to the Department of Homeland Security’s (DHS, or the Department) Notice of Proposed Rulemaking (NPRM or proposed rule), I would like to express our unequivocal opposition to the changes regarding “public charge,” published in the Federal Register on October 10, 2018. The proposed rule would cause major harm to numerous immigrant survivors of abuse and their families and is likely to further isolate victims of domestic violence who are routinely denied the ability to maintain employment or seek out legal protections because of their status as an immigrant or undocumented individual. We urge that the rule be withdrawn in its entirety, and that long standing principles clarified in the 1999 field guidance remain in effect.

End Domestic Abuse WI (End Abuse) is the statewide coalition against domestic violence led by social policy advocates, attorneys and experts working to support, connect, equip, empower and lead organizations for social change to end domestic violence in Wisconsin. While End Abuse does not provide direct crisis services to survivors, we do support the work of direct service providers around the state who advocate tirelessly for the safety and empowerment of all victims of domestic violence, including those who are immigrants or undocumented individuals. At End Abuse we recognize that immigrant and undocumented victims face unique barriers to safety that make them especially vulnerable to manipulation and abuse at the hands of an intimate partner. Any policy change that restricts access to public benefits for immigrant and undocumented victims will diminish their ability to leave an abusive partner and therefore has a clear negative effect on their, and their children’s, safety. Furthermore, the fear created by these rules would extend far beyond any individual who may
be subject to the “public charge” test, harming entire communities as well as the infrastructure that
serves all of us, such as schools, hospitals and clinics. All these consequences are identified in the
proposed rule itself, under costs; a substantial body of evidence demonstrates that they are highly
significant and damaging.

While some victims seeking survivor-specific forms of humanitarian immigration relief, such as Violence
Against Women Act (VAWA) self-petitions and U visas, are exempt from the public charge ground of
inadmissibility, the exception will fail to protect numerous 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. Immigrant survivors hold all forms of status, from naturalized U.S. citizens to permanent
residents 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 and their families from accessing the services that act as
a key bridge to safety as victims attempt 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.

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 lifetime2 and more than 12 million men and
women experiencing rape, physical violence, or stalking by an intimate partner each year in the United
States.3 In an average day in Wisconsin, close to 2,000 victims are served by a domestic violence agency,
while roughly 200 requests for services go unmet. Local and state staff for the Domestic Violence
Hotline in Wisconsin answer roughly 32 calls every hour, yet many advocates report that undocumented
clients are unwilling to call police or seek out a restraining order out of fear of deportation and
separation from their families. Wisconsin has many culturally specific domestic abuse programs that
provide linguistically and culturally appropriate services for immigrant survivors of domestic abuse.

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Service Needs of Battered Immigrant Latinas: Legal and Policy Implications. Georgetown Journal on
and Domestic Violence: Voices of Battered Immigrant Women. Feminist Criminology, 4(1), 32-56. DOI:
10.1177/1557085108325413.
3 Centers for Disease Control and Prevention. (2011). Sexual Violence, Stalking, and Intimate Partner
Violence Widespread in the US. Available at: https://www.cdc.gov/media/releases/2011/p1214_sexual_violence.html
Wisconsin is home to a growing immigrant population. There are an estimated 288,544 foreign-born people residing in Wisconsin.⁴ From 1990 to 2016 Wisconsin’s foreign-born population doubled, from 2.5% to 5% of the total state population. Wisconsin’s Latinx population increased by 95% from 2000 to 2015.⁵ Wisconsin’s immigrants hail from many different countries. American Immigration Council (AIC) reports that as of 2015 “[t]he top countries of origin for immigrants [in Wisconsin] were Mexico (31.6 percent of immigrants), India (8.1 percent), Laos (6.6 percent), Thailand (3.7 percent), and China (3.5 percent).” AIC also states that as of 2016, “379,613 people in Wisconsin (6.6 percent of the state’s population) were native-born Americans who had at least one immigrant parent.”⁶

The dairy industry, very important to the state, relies heavily on immigrant workers.⁷ AIC data shows that immigrants are integral to the state’s economy, making up “over 22 percent of all Wisconsin farmers, fishers, and foresters” and “12 percent of residents working in the computer and math sciences.”⁸ The health and wellbeing of Wisconsin’s immigrant community impacts every person who lives in the state.

The proposed rule has already caused immigrants and their dependent family members to fear continued access of public benefits for which they are eligible. This “chilled population” consists of those who know or simply fear that continued access of public benefits would negatively impact their future chances at immigration status. Experts say that this “chilled population” includes all noncitizens and their dependent family members. Recent Manatt data shows that the “chilled population” in Wisconsin is approximately 284,220 people and can be found all across the state, in urban areas like Madison and Milwaukee, and on rural dairy farms in outstate Wisconsin.⁹ 284,220, or 5% of the state’s population, would be directly impacted by this proposed rule. The remaining 5.5 million people in the state would be harmed nonetheless by the weakening of our community and state economy.

Due to the prevalence of domestic violence and sexual assault, local domestic violence agencies have worked hard over the years to provide many important protections and programs to ensure all victims have the ability to access safety and justice. The public charge rule should be interpreted to contribute

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⁴ “State Demographics Data - WI.” Migration Policy Institute, 1 Oct. 2018, www.migrationpolicy.org/data/state-profiles/state/demographics/WI.


⁶ State Demographics Data - WI.” Migration Policy Institute.


⁸ State Demographics Data - WI.” Migration Policy Institute.

to the federal and state protections that currently exist for survivors, as well as the goals of these local agencies to support victim safety, empower recovery from trauma, promote healthy families, and invest in 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 for individuals and families can help reduce and prevent intimate partner violence. 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. 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, and victim service providers,

advocates, and allies across the United States report that survivors became homeless as a result of sexual violence. 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. Without housing, sexual assault victims report that other services to address the violence were not likely to be helpful.

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 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. 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. 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. 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.

19 Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults.
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. 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 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.

**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

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20 Goodman, S., *supra*, Note 10 at 11

21 Id. At 13
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.\textsuperscript{22}

**Hindering Access to Economic Supports Undermines Survivor Safety**

As this data illustrates, economic resources play a critical role in supporting women’s safety.\textsuperscript{23} 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.\textsuperscript{24}

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.\textsuperscript{25} 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.\textsuperscript{26}

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.


\textsuperscript{23} 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”).


For example, these following heavily weighted negative factors would potentially harm victims in these ways:

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.27

Abusers are often threatened by their victim showing any type of independence, including seeking employment or skills necessary to find employment, such as English skills. Abusers are wont to stalk their victims at work or classes, making it uncomfortable or even unsafe for the victim to continue employment or attending classes. Abusers are also strategic in when they cause visible physical marks on their victims to prevent their attendance at work or school, often resulting in the victim’s dismissal or quitting of the position.

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.

For example, in Wisconsin, immigrants paroled into the U.S. under INA Section 212(d)(5) may be eligible for benefits such as BadgerCare Plus and FoodShare. Parolees are often granted parole due to humanitarian reasons. A parolee who is then eligible to adjust status through other means, such as through employment or through a family-based petition, would be negatively impacted for receiving necessary lifesaving benefits like FoodShare or BadgerCare Plus when he or she files for adjustment of status. It is less expensive for the state and for localities if everyone in the state, including immigrants has access to enough food and quality healthcare coverage allowing them access to preventive care.

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.

States like Wisconsin make decisions about coverage for health benefits in partially out of concern for the impact of a particular condition and its potential for spreading on the public at large. Tuberculosis (TB) is a potentially fatal disease that has been on the rise in the United States over the past few years. Wisconsin offers income-eligible people who have been diagnosed with Tuberculosis and do not qualify for BadgerCare Plus due to their immigration status coverage for treatment of their Tuberculosis infection or disease. The Center for Disease Control states that “[p]eople with TB disease can be treated

and cured if they seek medical help. Even better, people who have TB infection but are not yet sick can take medicine so they will never develop TB disease.” There is nothing in the proposed rule that exempts this TB-only coverage from consideration of public charge for an individual. The proposed rule would discourage people from seeking coverage for their TB, thereby directly negatively impacting their ability to access treatment for the dangerous condition. Wisconsinites as a whole are safer if everyone with serious diseases or infections such as TB feel safe accessing needed coverage and treatment for the condition.

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 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.28 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.

The proposed rule on public charge would mean thousands and thousands of people would be ineligible to gain permanent immigration status through adjustment or visa processing. This would include friends and family members of survivors. Survivors, including immigrant survivors, often cite friends as family as the reason they survived and escaped the abuse. If immigrant survivors do not have that support person- the sister who takes the survivor and her children into her home, the neighbor who calls the police when he hears the survivor’s pleas for help, the friend who listens and offers encouragement- the survivor will have less tools to survive or escape the abuse. Survivors need a varied support system, including friends, family and neighbors, to flourish and break the cycle.

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, 29 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.

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 Chase Tarrier, Public Policy Coordinator, to provide further information.

Sincerely,

Patti Seger
Executive Director
End Domestic Abuse WI

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December 8, 2018

Submitted via www.regulations.gov

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

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

Dear Sir/Madam:

The Iowa Coalition Against Domestic Violence (ICADV) is submitting comments in response to proposed changes regarding “public charge” as presented in 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.

The proposed rule represents an extreme departure from current policy that will significantly harm victims of domestic and sexual violence. The expanded public charge determination forces immigrant survivors and family members into an impossible choice between accessing economic supports that keep them safe or losing their immigration status and the protections available under current federal law. ICADV opposes all changes to public charge described in the proposed rule and urges that current guidance around public charge remain in effect.

ICADV is a state-wide organization based in Urbandale, Iowa. We represent local agencies providing direct services in every county to victims of domestic and sexual violence and provide civil legal services to victims statewide. ICADV programs and member agencies served 35,000 victims of domestic violence last year, including immigrant survivors of intimate partner violence.1 We submit the following comments summarizing our concerns.

The proposed rule undermines stability for immigrant families, erects barriers to safety for victims of domestic violence, and threatens Iowa’s economic stability.

Public benefit programs provide a critical safety net to survivors of domestic and sexual violence, ensuring that basic needs will be at least partially met while they recover from trauma. When survivors lose access to economic supports it affects not only the economic security of individuals, but also families and children. Although there are exemptions from public charge for some survivor-specific forms of immigration status such as Violence Against Women Act (VAWA) self-petitioners and U visas, most domestic violence survivors cannot access these protections. However, even in instances where survivors have secure immigration status and the proposed rule does not directly apply to them, the proposed rule will impact family members seeking admission or permanent residence, such as those sponsored by survivors, or those living in their households.

The proposed rule radically changes current guidance on ‘public charge’ determinations by expanding the range of programs and public supports counted against an immigrant applying for a visa or green card and sets up strict disqualification criteria that will harshly impact victims of

violence. Expanding the public charge determination in this way discourages survivors and their families from accessing public benefits out of fear of jeopardizing their immigration status. The proposed rule forces survivors and family members to choose between receiving economic supports that enable them to flee an abusive relationship or losing their immigration status and access to protections available under current federal law.

We are gravely concerned by the harmful impact this will have on the health and safety of immigrant survivors and children. In addition to the significant human suffering the rule imposes on immigrant survivors, the proposed changes will negatively impact Iowa’s economy, which relies heavily on the valuable contribution of immigrant families. By undermining access to critical services, the proposed rule threatens the ability of immigrant families to live and work in our state.

Immigrants are increasingly important to Iowa’s economy. Immigration has helped moderate the economic impact of Iowa’s aging population and to increase the overall number of workers who generate income and pay taxes to support schools and services for all Iowans, while also contributing to programs such as Social Security and Medicare that support retirees. The majority of Iowa immigrants are of prime working age and are effectively growing rural communities and enabling businesses to address significant workforce shortages. Immigration accounted for more than 40 percent of Iowa's population growth since 2010, and these new Iowans help maintain our thriving economy. Business leaders in Iowa are united in their concern over changes in immigration policy that negatively impact the state’s workforce.

Iowa service providers are seeing already the chilling effects of this policy as more immigrants and even citizens choose to forego critical services because they fear jeopardizing their family’s immigration status. To illustrate, a client of our legal clinic who would be exempt from public charge because she has a pending U visa is choosing to forgo food assistance and will not enroll her Medicaid-eligible son in health care because she fears denial of her U visa application. This client, a working mother who fled her abusive relationship, simply needs short-term public support to recover and care for her son. She is struggling to find safe housing and without it she risks losing her full-time job at a company in rural Iowa that cannot meet the demand for their services due to workforce shortages. The proposed rule is bad for immigrant survivors of domestic violence, for their families, and for Iowa communities.

The proposed public charge rule discourages access to essential services that enable victims of domestic and sexual violence to escape harm or remain safe in their homes, workplaces, and communities.

Intimate partner violence remains a public health crisis in the United States, impacting 1 in 3 women and 1 in 6 men in a lifetime with most first experiences occurring before age 25. The nature of intimate partner violence makes it difficult for victims to access services that can keep them safe. Immigrant victims face additional, overwhelming challenges seeking assistance because abusive partners routinely exploit a partner’s immigration status as a tactic of abuse and control. Immigrant victims of violence don’t seek help if they/family/friends could be

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deported and/or lose their immigration status. The proposed public charge rule makes this public health crisis exponentially worse.

The proposed public charge rule will become a deterrent to survivors in assisting law enforcement in the prosecution of domestic violence, sexual assault, and stalking crimes. Criminal proceedings can be long and trying for many families and access to basic food, health, housing, and economic supports can be vital in insuring a survivor and their family are present and able to assist law enforcement and district attorneys in the prosecution of violent crimes. When law enforcement is unable to hold violent perpetrators of abuse accountable it undermines public safety for the whole community.

Financial abuse is a tactic used by virtually all abusive partners. Financial abuse remains one of the most powerful methods of keeping a survivor trapped in a violent relationship and deeply diminishes the victim’s ability to stay safe after leaving an abusive partner. Access to economic support programs – like the ones included in the proposed rule – play a pivotal role in enabling victims to safely leave an abusive relationship, protect their children from an abusive partner, or recover from the abuse.

Access to health care, housing assistance, and other safety net programs enable victims to meet basic needs, rebuild their lives, and keep their jobs. By significantly expanding the range of public assistance programs that count against an individual in deciding whether they are likely to become a public charge the proposed rule discourages survivors and their families from accessing these benefits out of fear of jeopardizing their immigration status.

Iowa’s victim service provider network is nationally recognized for its record of success in implementing a service delivery model that enhanced access to services in rural areas and prioritized economic stability and permanent housing solutions to better meet the long-term needs of domestic and sexual violence victims. The proposed rule undermines the gains our communities have made to advance public safety and jeopardizes the safety of domestic and sexual violence survivors in the following ways:

**Housing**

Mirroring national trends, domestic violence is a leading cause of homelessness for women and children in Iowa. Assistance obtaining and maintaining housing helps survivors avoid homelessness, as well as providing a safe environment to begin their recovery. Iowa service providers report that the proposed rule is already negatively impacting housing stability and harming immigrant families.

Many survivors in Iowa have citizen children eligible for Section 8 housing vouchers. This program has been essential to enabling survivors and children to leave an abusive relationship and find safe, affordable housing. A provider serving a client in rural Iowa recently reported that a survivor chose to stay in the abusive relationship because she feared that using the Section 8 voucher would jeopardize her pending U visa application. Another survivor being served in one of Iowa’s urban areas, feared for her life and harm to her children and fled to a shelter. Although her citizen children would have enabled her to obtain public housing, she did not want to jeopardize her immigration status. Ultimately, the shelter was too far from her job so she returned to the area and is now homeless and searching for affordable housing. Because she could not provide a stable home, her children were taken away and returned to the care of the abusive partner.
A 2016 statewide survey identified housing as one of the greatest needs of Iowa domestic violence victims. The inability to find and maintain affordable housing, especially in rural Iowa, increases danger for domestic violence victims and their children. On a single day in Iowa, 77% of requests from victims were for housing-related services and more than half of the unmet needs on that day involved housing. Without housing assistance, many victims are unable to leave abusive relationships and report that other types of assistance are unlikely to be helpful.

**Supplemental Nutrition Assistance Program (SNAP)**

SNAP enables survivors of domestic and sexual violence and their families, to meet basic food and nutritional needs and provides a way for survivors to take care of themselves and their children while working to rebuild their lives. Iowa service providers report that SNAP provides essential emergency assistance to victims using the program to restore safety and stability in their lives. Absent the ability to meet this basic need for their families, many survivors have no choice but to return to abusive partners.

**Healthcare Assistance - Medicaid**

For humanitarian and financial reasons, we strongly urge that Medicaid be excluded from the final rule. Access to health care is essential for survivors of domestic violence enabling them to treat the significant health consequences of abuse. Including Medicaid in the proposed rule means that many survivors will forgo needed health care. Additionally, Iowa service providers report that the proposed rule is already resulting in families choosing not to enroll Medicaid-eligible citizen children to avoid risking their immigration status. Importantly, it is fiscally irresponsible to create barriers to health care access for immigrant families.

Many Americans mistakenly believe that immigrants are a financial drain on the U.S. health care system, costing society more than spending on U.S. citizens. As a result, immigrants are systematically excluded from public health insurance programs and often forced to rely on emergency care which increases costs to the system. In fact, a comprehensive review of U.S. health care expenditures found that immigrants used less care and paid more toward medical expenses than they withdrew. Importantly, researchers found that immigrants provided a low-risk pool that actually subsidizes the public and private health insurance markets. Researchers concluded that instead of restricting access to health care, it would be fiscally responsible for insurance and medical care be made more widely available to immigrants.

Immigrants are already subject to a 5-year ban on participation in public insurance programs. The proposed rule further jeopardizes immigrant health by unfairly penalizing immigrants for accessing essential health care and it discourages access to care even for individuals exempt from public charge determinations.

**Healthcare Assistance - Children’s Health Insurance Program (CHIP)**

For the same reasons cited for Medicaid, we recommend that DHS continue to exclude CHIP from consideration in a public determination in the final rule. Iowa service providers confirm that

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6 DV Iowa; https://nmedv.org/mdocs-posts/2017-iowa/

increasing numbers of clients are already withdrawing their Medicaid-eligible children from health coverage due to fears that it will impact their immigration status.

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

The proposed public charge rule punishes survivors of domestic and sexual violence for the actions of their abusive partner.

Financial abuse is behavior that controls a person's ability to acquire, use, or maintain economic resources, and threatens their self-sufficiency and financial independence. Although financial abuse occurs in 99% of domestic violence cases, many Americans do not consider it a form of abuse. This harmful thinking is reflected in the proposed rule. The heavily-weighted negative factors described in the proposed rule will disproportionately harm survivors of domestic and sexual violence by penalizing them for actions of an abusive partner.

Many abusive partners prevent or sabotage their partners economic independence or stability by limiting access to money, interfering with employment, ruining their credit, etc. Victims who are working and earn enough to be self-sufficient often become impoverished as a result of the abuse or the abuse threatens their ability to keep their job, maintain housing, or otherwise obtain financial security. Survivors whose partners have sabotaged their ability to keep their job, restricted their access to bank accounts, accrued debt in their name, or exerted other forms of economic exploitation and control are forced to become dependent on their abusive partner's income.

Public benefit programs provide a critical safety net to survivors, ensuring that their basic needs will be at least partially met while they leave an abusive relationship or heal from trauma. Gaps in employment, reduced income because of abuse, and use of public benefits should not be counted against a survivor. In fact, for many survivors, safety-net programs enabled them to leave their relationship and obtain financial independence. Iowa victim service programs offer a financial literacy and asset building class that has enabled hundreds of survivors in Iowa to gain financial independence from an abusive partner. Without these supports, survivors often return to harmful relationships.

In considering the totality of circumstances re public charge, we recommend the proposed rule include the purpose and guidance of important protections in federal law like the Violence Against Women Act, the Trafficking Victims Protection Act, the Victims of Crime Act, and other important laws protecting victims from being subject to the public charge test. Admission to the United States or adjustment of immigrant status can help victims access employment and increase their ability to escape the violence. When applying the public charge rule, DHS should consider the supportive and protective effects of stable immigration status to survivors.

Conclusion

Iowa communities thrive when we support the safety and well-being of survivors of domestic and sexual violence. No one should have to choose between accessing support that keeps them safe or losing their immigrant status and protections available under current federal law.
ICADV appreciates the opportunity to comment on the proposed rule. For the reasons detailed in these comments illustrating the significant harm the proposed public charge rule will have on immigrant families and survivors of domestic and sexual violence, we strongly oppose all changes to public charge described in the proposed rule. To avoid continued harm to immigrant families and because we see no persuasive rationale for change, we urge that current guidance around public charge remain in effect.

If you require additional information please contact Laura Hessburg, Public Policy Director, Iowa Coalition Against Domestic Violence, laurah@icadv.org, 515-421-4667.

Sincerely,

The Iowa Coalition Against Domestic Violence (ICADV)
December 10, 2018

Samantha Deshommes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Ave. NW  
Washington, DC 20529-2140

Re: DHS Docket No. USCIS—2010—0012: Comments in Response to Proposed Rule on Inadmissibility of an Alien to the United States on Public Charge Grounds

Submitted via the Federal Rulemaking Portal: www.regulations.gov

Dear Ms. Deshommes:

Legal Momentum welcomes the opportunity to comment on the Department of Homeland Security’s (DHS) proposed rule seeking to amend regulations regarding whether an alien is considered a “public charge” and consequently should be excluded from the United States.

Advocating for gender equality for over 40 years, Legal Momentum remains committed to achieving economic and personal security for all women and girls by eliminating barriers to equal treatment and advancing access to equal opportunity. Based on our longstanding experience advancing the rights of the most vulnerable, including immigrant women, we respectfully submit the comments below.

Instead of promoting self-sufficiency, the proposed rule will penalize hard-working low- and moderate-income immigrant families, hurt our economy by increasing poverty and inequality, compromise the health and welfare of women and children, and jeopardize the safety of immigrant survivors of gender-based violence. Accordingly, we urge you to act expeditiously to withdraw this proposed rule in its entirety.

1. Instead of Promoting Self-Sufficiency, the Proposed Rule Will Discriminate Against Low- and Moderate-Income Families and Disproportionately Penalize Women.

According to the register, “[t]he primary benefit of the proposed rule would be to help ensure that aliens who apply for admission to the United States, seek extension of stay or change of status, or apply for adjustment of status are self sufficient, i.e., do not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of...
To advance self-sufficiency, the rule seeks to expand the types of benefits considered for public charge determinations, adding nutrition assistance, housing support, and various forms of healthcare. The rule also seeks to take into account a broad range of factors, including a person’s income, age, educational and skill attainment, family status and household size, medical condition, and limited English proficiency. Additionally, the proposed rule will assign a strongly weighted negative factor in certain circumstances, for instance, for individuals earning less than 125% of the federal poverty level.

Taking into account current wage dynamics in our economy and employment trends within the immigrant community, this proposed rule will not serve its intended purpose of promoting self-sufficiency. Rather, it will primarily serve to discriminate against low- and moderate-income immigrant families, disproportionately penalize immigrant women, and exacerbate poverty and inequality.

The reality is that immigrants in the United States have a lower unemployment rate than native-born citizens, are more active in our economy (either working or looking for work), and yet they make substantially less than native-born citizens. Moreover, across the United States, our communities and our economy depend on the essential contributions of immigrant workers, including immigrant women, many of whom work as domestic workers, farm workers, nurses, home health aides, cashiers, and janitors.

The proposed rule, if adopted, will have a disproportionate negative impact on these women. Despite their essential role in our economy, immigrant women are often the lowest paid individuals in our country. For example, women day laborers and domestic workers generally make less than their male counterparts, yet many are the primary income earners in their households and are responsible for dependent children at home or elsewhere. Their immigration status, financial insecurity, and lack of access to opportunity drive far too many women into low-wage jobs and employment in the informal economy, where they work tirelessly for wages that fail to cover the cost of living. Because of their financial insecurity, immigrant women are far more vulnerable to a host of other abuses, including wage theft, poor working conditions, discrimination, sexual harassment, retaliation, and gender-based violence at home and at work.

The fact that our economy undervalues immigrant women in the workplace means that many working immigrant women must rely on public benefits to supplement their wages to cover basic necessities—to secure housing, purchase food for their families, and obtain healthcare for their children. All too often, immigrant families that must rely on public benefits are doing so not because they are not working but rather because they are being compensated unfairly or in violation of the law. Advancing self-sufficiency in the immigrant community therefore requires fairer wage practices, not a scheme that punishes immigrant families for trying to make ends meet under impossible circumstances.

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By penalizing low-wage immigrant women for having low incomes and legally using critical benefits, the proposed rule will not advance self-sufficiency. Instead, the rule will entrench existing injustices and drive up poverty, hunger, housing needs, and economic insecurity of women. These are all factors that will hurt, rather than strengthen, our economy.


The persistent undervaluation of work performed by immigrant women, combined with disproportionate family obligations placed on women, mean that immigrant women are far more likely to be financially insecure and unable to absorb typical financial irregularities that stem from circumstances such as illness, pregnancy, or loss of child care. Because of the nature of the work they do in the low-wage economy, immigrant women are less likely to receive benefits through their employers to help them weather some of these shocks. This means that access to public benefits is critical to ensuring that immigrant women are not forced to choose between staying in the country and seeking prenatal care or healthcare for their children.

The proposed rule will have particularly severe consequences for pregnant and postpartum women and children. It will likely encourage a large number of women to forgo critical health coverage and nutrition assistance, including prenatal and postnatal care for themselves and healthcare for their infants and young children under programs like Medicaid, CHIP, and WIC. The short- and long-term impacts on women, children, and our economy will likely be profound. Lack of early prenatal care and nutrition assistance for mothers can negatively impact birth and early health outcomes, resulting in poor birth outcomes; higher rates of infant and maternal mortality; and poorer health, education, and financial outcomes for children of all ages. Encouraging such negative outcomes will have the opposite of the intended impact—reinforcing shameful inequities and ultimately driving up long-term costs for low-income immigrants.

By penalizing immigrants for accessing essential benefits like healthcare, food assistance, and housing assistance, benefits that many are legally entitled to receive, the rule puts women and families at risk and undermines the health and wellbeing of children who are American citizens, compromising their ability to thrive in the long run.


Immigrant women face high levels of gender-based violence, and women with fewer economic resources are increasingly susceptible to gender-based exploitation. Many women crossing our border are attempting to escape such violence and too many women who have made it safely into the United States continue to suffer abuse either at home or in the workplace. Lack of financial security, resources and/or stable immigration status render immigrant women all the more susceptible to extreme forms of sexual violence.

The proposed rule will negatively impact immigrant survivors of gender-based violence and their families. Access to healthcare, housing, food assistance, and other supports play a pivotal role in helping victims

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escape and overcome domestic and sexual violence, whereas lack of access to such support can serve as a major barrier, preventing victims from escaping the abuse.\footnote{See CENTER FOR DISEASE CONTROL, Preventing Intimate Partner Violence Across the Lifespan: A Technical Package of Programs, Policies, and Practices (2017), \url{https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf}.}

By penalizing immigrant women for accessing critical benefits, the proposed rule will deter immigrant survivors of gender-based violence (and their families) from obtaining the vital services that allow them to escape and overcome abuse.\footnote{See NATIONAL TASK FORCE TO END SEXUAL AND DOMESTIC VIOLENCE, Public Charge Regulation Harms Immigrant Families and Puts Victims of Sexual Assault and Domestic Violence at Risk (Sept. 26, 2018), \url{http://www.4vawa.org/ntf-action-alerts-and-news/}.} Instead, these victims, facing the already daunting choice of whether or not to take on the financial and security risks of leaving, now face a heightened risk that that escaping will leave themselves and their children homeless, hungry, and without medical care. Lack of access to healthcare also means that survivors will face challenges receiving medical assistance to address the range of medical issues that survivors often face such as chronic pelvic, back, and abdominal pain; headaches; depression; and anxiety.\footnote{See UNITED NATIONS POPULATION FUND, A Practical Approach to Gender-Based Violence: A Programme Guide for Healthcare Providers and Managers (2001), \url{https://www.who.int/hac/techguidance/pht/gbv_a_programme_guide_health_care.pdf}.}

While certain individuals seeking immigration status or entry, including refugees, asylees, and survivors of trafficking and other serious crimes, are not subject to the public charge determination, there are domestic violence and sexual assault survivors who do not fall within these exempt categories. Moreover, many survivors may not understand the difference, which risks discouraging both exempt and non-exempt survivors from seeking benefits or encouraging them to withdraw from programs.

In conclusion, Legal Momentum thanks DHS for this opportunity to express its views on the proposed regulation. As noted above, Legal Momentum strongly opposes the proposed rule because it does not serve the stated purpose of promoting self-sufficiency; its impact will be devastating to the welfare of immigrant women, children, and families in the United States; and it ultimately entrenches the systemic economic and gender-based discrimination these immigrant families already face at an increased cost to all of us. We therefore urge you to promptly withdraw the proposed rule its entirety.

Sincerely,

Seher Khawaja
Senior Attorney, Economic Empowerment
Legal Momentum

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\footnote{6 See NATIONAL TASK FORCE TO END SEXUAL AND DOMESTIC VIOLENCE, Public Charge Regulation Harms Immigrant Families and Puts Victims of Sexual Assault and Domestic Violence at Risk (Sept. 26, 2018), \url{http://www.4vawa.org/ntf-action-alerts-and-news/}.}

December 10, 2018

Submitted via www.regulations.gov

Samantha Deshommes, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Deshommes:

I am writing on behalf of Legal Voice in response to the Department of Homeland Security’s Notice of Proposed Rulemaking to express our strong opposition to the changes regarding “public charge,” published in the Federal Register on October 10, 2018.

Legal Voice advances the legal rights of women, girls, and LGBTQ people throughout the Pacific Northwest through ground-breaking lawsuits, legislative advocacy, and public education. Immigrants make up a large and vital part of the communities we serve, comprising over 1.5 million immigrants in the five states - Alaska, Idaho, Montana, Oregon, and Washington – where Legal Voice advocates and works.¹

¹ In Alaska nearly 8 percent of residents were born in another country and 9 percent are native-born Americans who have at least one immigrant parent. As of 2015, Alaska was home to about 58,544 immigrants or about 7.9 percent of the state’s population. Of that immigrant population 30,118 were women and 4,127 were children. American Immigration Council, Factsheet: Immigrants in Alaska (October 13, 2017) https://www.americanimmigrationcouncil.org/research/immigrants-in-alaska; As of 2015, Idaho was home to about 4,364 immigrants or about 5.7 percent of the state’s population. Of that immigrant population 44,478 were women and 6,391 were children. American Immigration Council, Factsheet: Immigrants in Idaho (October 5, 2017), https://www.americanimmigrationcouncil.org/research/immigrants-in-idaho; In Oregon 1 in 10 residents is an immigrant and 1 in 8 residents is a native-born U.S. citizen with at least one immigrant parent. As of 2015, Oregon was home to about 397,293 immigrants or about 9.9 percent of the state’s population. Of that immigrant population 191,777 were women and 25,028 were children. American Immigration Council, Factsheet: Immigrants in Oregon (September 15, 2017), https://www.americanimmigrationcouncil.org/research/immigrants-oregon; As of 2015, Montana was home to about 21,356 immigrants or about 2.1 percent of the state’s population. Of that immigrant population 11,065 were women and 1,258 were children. American Immigration Council, Factsheet: Immigrants in Montana (October 13, 2017) https://www.americanimmigrationcouncil.org/research/immigrants-montana; In Washington state it is estimated that 1 in 7 residents is an immigrant and 1 in 8 residents is a native-born U.S.
Immigrants and their families deserve access to healthcare, housing, education and employment without fear of persecution because of their immigrant status. As advocates for the rights of these communities, we write to express our opposition to the proposed public charge rule. We urge you to withdraw the proposed rule in its entirety and allow the longstanding principles clarified in field guidance issued in 1999 to remain in effect.

1. **The proposed rule is inconsistent with existing law, policy, and practice and how public charge has been historically understood.**

We are opposed to any policy that limits immigrants’ access to public benefits. While the proposed expansion on its face is unconscionable, it also represents an incredible departure from current policy. Indeed, it would reverse decades of well-established law, policy, and practice ensuring that immigrant families can participate in programs like Medicaid and SNAP (formerly food stamps) without unduly risking their ability to become lawful permanent residents.²

The last attempts to change the public charge test occurred in the 1990s. The passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996 set limits on immigrants’ ability to access public benefit programs. The law restricted eligibility for “federal means-tested public benefits” to only “qualified immigrants” and also limited access to those benefits during their first five years in the United States.³

PRWORA immediately created fear among immigrants, adversely impacting the broader immigrant and public health communities.⁴ Advocates provided immigration officials (then the Immigration and Naturalization Services or INS) with detailed accounts of PRWORA’s chilling effect. These stories included a pregnant immigrant woman with gestational diabetes terrified of seeking care, a child with seizures who was rushed to the hospital because his immigrant parents were afraid to enroll in Medicaid, and female farmworkers too afraid to enroll in a
citizen with at least one immigrant parent. As of 2015, Washington was home to 980,158 immigrants or about 13.7 percent of the state’s population. Of that immigrant population 474,417 were women and 60,318 were children. American Immigration Council, *Factsheet: Immigrants in Washington* (October 4, 2017), [https://www.americanimmigrationcouncil.org/research/immigrants-in-washington](https://www.americanimmigrationcouncil.org/research/immigrants-in-washington).


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state-funded perinatal case management program. There were also growing concerns that INS officials inappropriately scrutinized the use of health care and nutrition programs.

In direct response to evidence of PRWORA’s chilling effects, in 1999 INS issued new administrative guidance on public charge. The 1999 updated guidance specified that non-cash programs such as Medicare, Medicaid, food stamps, WIC, Head Start, child care, school nutrition, housing, energy assistance, and emergency/disaster relief would not be considered for purposes of public charge considerations. Indeed, the policy promotes good public health outcomes, helps to reduce inequalities, and adheres to the values underlying our country’s history as a nation of immigrants that welcomes people who plan to work hard and achieve a better life. Furthermore, this important clarification is consistent with Congressional intent and case law. Immigrant families, social service programs, and the broader health care community have relied upon the 1999 administrative guidance for decades and it should continue to be used.

2. The proposed rule will have a chilling effect, causing immigrants to stop seeking public services out of fear that it will prevent them from gaining legal status.

The current hostile climate against immigrants is punishing many immigrant families by discouraging them from accessing lifesaving services and benefits to which they are lawfully eligible. For instance, health and nutrition service providers noticed an increase in canceled appointments and requests to disenroll from means-tested programs in 2017. Researchers also found that early childhood education programs reported drops in attendance and applications, reduced participation from immigrant parents in classrooms and at events, and an uptick in missed appointments at health clinics. In a 2018 survey of health care providers in California, more than two-thirds (67 percent) noted an increase in parents’ concerns about enrolling their children in Medi-Cal (California’s Medicaid program), WIC and CalFresh (California’s SNAP

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5 Note: The following report is an example of the data that was collected and shared at the time the Field Guidance was written. Claudia Schlosberg et. al, National Immigration Law Center, The Impact of INS Public Charge Determinations on Immigrant Access to Health Care (1998) https://www.montanaprobono.net/geo/search/download.67362


7 64 Fed. Reg. 28689.


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program), and nearly half (42 percent) reported an increase in skipped scheduled health care appointments.\textsuperscript{11}

Immigrants’ use of health, nutrition, and social services will further decline significantly if the proposed public charge rule is finalized.\textsuperscript{12} Approximately 25.9 million people, or an estimated 8 percent of the U.S. population, would potentially be impacted, including through a chilling effect on the use of benefits.\textsuperscript{13} This includes about 9.2 million children under 18 years of age, representing approximately 13 percent of our nation’s child population.\textsuperscript{14} Additionally, according to the Kaiser Family Foundation, an estimated 2.1 million to 4.9 million Medicaid/CHIP enrollees could disenroll if the proposed rule is finalized.\textsuperscript{15}

In the Pacific Northwest, immigrant families and children will disenroll – and already are disenrolling – from critical services out of fear of the public charge determination. Over the past few years, several states in the region expanded coverage to immigrant communities. Montana, Oregon and Washington expanded CHIP or Medicaid to cover lawfully residing immigrant children,\textsuperscript{16} and Washington expanded CHIP or Medicaid to cover pregnant immigrant women regardless of immigration status.\textsuperscript{17} The proposed public charge rule will undermine those efforts because women and children will be too afraid to seek care.


\textsuperscript{13} This number represents individuals and family members with at least one non-citizen in the household and who live in households with earned incomes under 250 percent of the federal poverty level. Custom Tabulation by Manatt Phelps & Philips LLP, \textit{Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard} (2018), \url{https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population} (using 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 20122016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center (MCDC) MABLE PUMA-County Crosswalk).

\textsuperscript{14} These estimates include individuals and family members with at least one noncitizen in their household, in households with incomes under 250 percent of the FPL because when one family member fails to receive healthcare, housing, or nutrition benefits, the resources available to all family members, including children, decline. \textit{id}.


\textsuperscript{16} Henry J. Kaiser Family Foundation, \textit{Medicaid/CHIP Coverage of Lawfully-Residing Immigrant Children and Pregnant Women} (last updated January 1, 2018) \url{https://www.kff.org/health-reform/state-indicator/medicaid-chip-coverage-of-lawfully-residing-immigrant-children-and-pregnant-women/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22%22%22sort%22:%22asc%22%7D}.

\textsuperscript{17} \textit{id}.
The proposed rule, moreover, will have a disproportionate impact on immigrants from communities of color, revealing how immigration policies continue to be used to perpetuate structural racism.\textsuperscript{18} Even though people of color account for approximately 36 percent of the total U.S. population, they comprise approximately 90 percent of the 25.9 million people who would potentially be impacted by the proposed rule. Of this number, an estimated 70 percent are Latino (18.3 million), 12 percent are Asian American and Pacific Islander (3.2 million), and 7 percent are Black people (1.8 million).

Communities of color in the Pacific Northwest would also be disproportionately hit hard if the proposed public charge rule took effect. In Washington state, which was home to 980,158 immigrants as of 2015 and has the largest population of immigrants in the Pacific Northwest, the top countries of origin for immigrants were Mexico (24.2 percent of immigrants), the Philippines (7.4 percent), India (6.7 percent), China (6.1 percent), and Vietnam (5.2 percent).\textsuperscript{19} Structural racism has cut off communities of color from educational and economic opportunities for centuries and policies like the proposed public charge rule will further marginalize and place them at a significant social and financial disadvantage.

3. The proposed rule discriminates against women.

While immigrant women make up only a small share of public benefits recipients overall,\textsuperscript{20} women predominate among noncitizen recipients of income security programs. For example, in 2017, almost 47 percent of noncitizen Medicaid recipients were women, while 40 percent were men and 13 percent children.\textsuperscript{21} Almost 48 percent of noncitizen recipients of SNAP benefits were women in 2017, compared to 40 percent who were men and 12 percent who were children.\textsuperscript{22} These programs reduce poverty and help women, including many women working low-wage jobs, provide a basic standard of living for their families. By the Department’s own admission, the proposed rule “has the potential to erode family stability and decrease disposable income of families and children because the action provides a strong disincentive for the receipt or use of public benefits by aliens, as well as their household members, including U.S. children.” For this reason alone, the proposed rule should be rescinded.

\textsuperscript{18} See generally David B. Oppenheimer, Swati Prakash and Rachel Burns, Playing the Trump Card: The Enduring Legacy of Racism in Immigration Law, 27 Berkeley La Raza L. Rev. 1 (2016) \url{https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1264&context=blrlj}

\textsuperscript{19} American Immigration Council, Factsheet: Immigrants in Washington (October 4, 2017), \url{https://www.americanimmigrationcouncil.org/research/immigrants-in-washington}.


\textsuperscript{22} \textit{Id.}

Women’s rights. Nothing less.
a) The proposed rule harms women’s health.

There is a direct correlation between health insurance coverage and positive health outcomes. Yet immigrant women are less likely to have health insurance than their citizen counterparts. Twenty-seven percent of noncitizen immigrant women are uninsured, compared to 11 percent of women overall. Immigrant women of reproductive age fare even worse: while 34 percent of noncitizen women of reproductive age are uninsured, 9 percent of citizen women of reproductive age are uninsured. The gap widens further for poor immigrant women: nearly half (48 percent) of noncitizen women of reproductive age living in poverty are uninsured, compared to 16 percent for citizen women.

There are several explanations for this disparity. For instance, immigrant women are overrepresented in low-wage industries that do not provide health insurance. Others work multiple part-time jobs where they do not qualify for coverage. And purchasing private insurance on health exchanges created by the Affordable Care Act remains out of reach for many immigrant women because of cost, language barriers, confusion about the complexity of the U.S. healthcare system, and concerns about immigration enforcement.

Consequently, the lack of health insurance leads to poorer quality of healthcare, less use of preventative health services, and increasingly higher health costs for hospitals, emergency services, and state programs. When immigrant women forgo medical care, easily treatable illnesses or medical conditions can escalate, leading to worsening of existing conditions, lengthening of illness, and even disability or death. For example, lack of adequate prenatal care increases the risk of maternal mortality, and for immigrant women, this risk is further compounded by the lack of access to quality prenatal care.

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care contributes to higher rates of maternal and infant mortality and increased risk of low-infant birth weight.⑨ Similarly, postpartum care is crucial to the health and well-being of mothers, newborns, and families.⑩

Reproductive healthcare disparities continue to persist in parts of the Pacific Northwest. For example, as of 2014 the national rate of breast cancer in women was 123.9 per 100,000 women.⑪ But in Washington the risk of breast cancer is much higher, averaging about 134.8 per 100,000 women.⑫ And while the rate of immigrant women who get mammograms in the U.S. is increasing, those improvements have been attributed to public health insurance.⑬ Maternal mortality rates likewise remain high in several states that Legal Voice works in, including 6.1 percent in Idaho and 5.9 percent in Montana.⑭ Alaska and Idaho also have significantly higher teen pregnancy rates than other parts of the country – with Alaska at 25.8 out of 100,000 people and Idaho at 20.1 out of 100,000 as of 2016.⑮ These statistics indicate that all women, including immigrant women, need access to both health insurance and the full range of health care services in order to live safe and successful lives.

Programs like Medicaid therefore serve as a lifeline for many immigrant women and their families by providing access to the full range of health and reproductive health care services: from prenatal care to contraception to cancer screenings. In short, Medicaid prevents immigrant women from falling into the coverage gap. Losing, disenrolling, or avoiding Medicaid coverage will put immigrant women’s health at risk and lead to the dangerous outcomes described above. And even though the proposed rule would not punish those who seek health

⑪Henry J. Kaiser Family Foundation, Breast Cancer Incidence Rate per 100,000 Women (2014) https://www.kff.org/other/state-indicator/breast-cancer-rate/?activeTab=map&currentTimeframe=0&selectedStates=%7B%7B%22washington%7D%7D%22%7B%22united-states%7D%7D%7D&sortModel=%7B%7B%22colId%7D%7D%7D&sortModel=%7B%7B%22Location%7D%7D%7D%22%7B%22sort%7D%7D%22%7B%22asc%7D%7D.
⑫ Id.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3772964/.

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care services unconnected to Medicaid, as a result of the proposed rule’s chilling effect some immigrant women may avoid accessing those programs for fear of risking their future status.

b) The proposed rule undermines women’s economic opportunities.

The proposed rule ignores the critical role of public benefits in facilitating economic self-sufficiency. The positive long-term effects of SNAP, Medicaid, and other benefits included in the public charge determination are well documented, enabling workers to remain employed, build financial stability, and make healthy decisions.\(^{36}\)

Immigrant women make up about 7.3 percent of the U.S. workforce, or about 11.8 million people\(^{37}\), and are overrepresented in low-wage industries.\(^{38}\) In 2015, one-fifth of immigrant women earned poverty-level wages in 2015 ($11,770 per year or less).\(^{39}\) And even though another one-fifth were earning annual wages that did not technically qualify as poverty-level by federal standards, those wages were very low nonetheless (between $11,770 and $20,000).\(^{40}\) Put another way, in 2015 about 42 percent of immigrant women made less than $20,000 annually.

The proposed rule ignores the positive impact of public benefits in facilitating economic self-sufficiency. There is a large body of research demonstrating positive long-term effects of receipt of many of the benefits that are included in the public charge determination, including SNAP and Medicaid. In particular, the use of these benefits often enables workers, especially those in the low-wage workforce, to remain employed.\(^{41}\) For example, 60 percent of adult

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\(^{37}\) Just over half (50.8 percent) of immigrant women workers were from Latin America as of 2015, while roughly one-third (31.3 percent) were from Asia, 10.4 percent from Europe, and 5.2 percent from Africa. American Immigration Council, *Factsheet: The Impact of Immigrant Women on America’s Labor Force* (March 8, 2017), https://www.americanimmigrationcouncil.org/research/impact-immigrant-women-americas-labor-force.

\(^{38}\) In 2015, immigrant women comprised more than half (51.5 percent) of all workers grading and sorting agricultural products, 47.1 percent of personal appearance workers, 42 percent of maids and housekeepers, 39.5 percent of textile and garment pressers, and 39.5 percent of sewing machine operators. American Immigration Council, *The Impact of Immigrant Women on the American Labor Force* (March 8, 2017). Id.

\(^{39}\) Id.

\(^{40}\) Id.

Medicaid recipients are employed and, within that group, 51 percent work full-time for the entire year. And in SNAP households with at least one working-age, non-disabled adult, 58% were employed but didn't make enough to leave SNAP, illustrating how difficult it is, if not impossible, for women working in low-wage jobs to support themselves and their families on their income alone.

In the Pacific Northwest, immigrants, including immigrant women, make up a large share of the low-wage workforce. Immigrants comprise 25 percent of workers in Alaska’s manufacturing industry and 21 percent in the finance and insurance industry. In Idaho, immigrants account for over 40% of the fishing and farming laborers, two of the largest industries in the state. They constitute 10 percent of people working in the field and 14 percent of residents working in the extraction industry in Montana. And in Washington, the state with the second highest production of food in the U.S., over half of the state’s farmers, fishers, and foresters are immigrants.

Unless and until policies shift that authorize a living or increased minimum wage, access to public benefits like Medicaid and SNAP will continue to remain the only means in which many immigrant women can support themselves and their families. The proposed rule is not only bad policy, but it is counterproductive and costlier for the government by making it more difficult for immigrant women to become economically self-sufficient.

4. The proposed rule harms survivors of gender based violence.

Access to public benefits like housing assistance, SNAP, and Medicaid is fundamental in helping immigrant survivors of domestic violence and sexual assault leave an abusive relationship and establish a safer and more stable life. In a 2017 survey of service providers working with


survivors, over 88 percent of respondents said that SNAP is a very critical resource for most domestic violence and sexual assault survivors. By disincentivizing access to such benefits, the proposed rule jeopardizes their safety, leaving them trapped in violent and dangerous situations.

Ending gender based violence is a core part of Legal Voice’s work in the Pacific Northwest. In Alaska, 59% of adult women report experiencing sexual assault or intimate partner violence in their lifetimes. From 2000 to 2012 there were 112 fatalities due to intimate partner homicide in Montana. About one third of women in Oregon report experiencing some kind of domestic violence, stalking, sexual assault, or physical assault. And in 2014, in Washington state intimate partners perpetrated almost 20% of aggravated assaults and over 32% of simple assaults. Immigrant women experience violence at or above these rates. They are also less likely to report crimes to the authorities because of fear of deportation or of implicating their immigration cases.

While survivors who seek to adjust their immigration status through VAWA or U pathways are not subject to a public charge determination, many immigrant survivors do not fall under those named categories and will therefore be profoundly harmed by this proposal.

5. The proposed rule harms LGBTQ individuals.

Assumptions that LGBTQ people are likely to become a public charge have historically and explicitly been used to prevent LGBTQ individuals from entry into the U.S. While U.S. immigration laws no longer explicitly exclude LGBTQ people and their families, this sweeping proposed rule once again puts LGBTQ people at risk of being targeted and torn apart from their families.


54 While the rule exempts self-petitioners under VAWA and asylees, this rule will nevertheless harm immigrant women who are survivors of domestic violence or sexual assault but do not fall into these specific immigration categories, or survivors who are citizens or have LPR status but have family members who are not. See INA 212(a)(4)(E) and proposed 8 CFR 212.25.

Women's rights. Nothing less.
Due to family rejection and anti-LGBTQ discrimination in the workplace, education, housing, and healthcare, many LGBTQ people struggle to become economically secure in our country.\textsuperscript{56} Washington state is home to a significant LGBTQ population, estimated at approximately 260,291 people.\textsuperscript{57} Legal Voice has advocated for equal protection for LGBTQ individuals under state laws\textsuperscript{58}, but disparities in health outcomes, housing, and employment remain a challenge across the Pacific Northwest.

The Williams Institute found LGBTQ people are more likely than non-LGBTQ people to report experiencing food insecurity, and a Center for American Progress survey found that LGBTQ respondents and their families are more likely to receive Medicaid and more than twice as likely to receive SNAP benefits.\textsuperscript{59} While 12.9\% of non-LGBTQ people surveyed reported receiving Medicaid benefits, 20\% of LGBTQ people reported receiving Medicaid.\textsuperscript{60} In addition, LGBTQ people with disabilities were over 3 times more likely to receive Medicaid than those without.\textsuperscript{61} The survey also found that LGBTQ respondents and their families relied on housing assistance at 2.5 times the rate of non-LGBTQ respondents.\textsuperscript{62} Discrimination and bias based on a person’s sexual orientation and gender identity contribute to the economic insecurity for LGBTQ people and their families and could be used against them under the proposed rule’s income test.

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\textbf{For all of the foregoing reasons}, we strongly urge the Department to immediately withdraw this punitive proposed rule. If enacted, the rule would force families to choose between accessing necessary and lifesaving support services to which they are legally eligible and reuniting or staying with their families, a decision no person should have to make. Moreover, the proposed rule would have widespread and costly consequences at the local, state, and

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\textsuperscript{56} Lourdes Ashley Hunter, Ashe McGovern, and Carla Sutherland, Eds, \textit{Intersecting Injustice: Addressing LGBTQ Poverty and Economic Justice for All: A National Call to Action}, 2018
https://static1.squarespace.com/static/5a00c5f2a803bbe2eb0ff14e/t/5aca6f45758d46742a5b8f78/1523216213447/FINAL+PovertyReport_HighRes.pdf.

\textsuperscript{57} Movement Advancement Project, \textit{Washington’s Equality Profile},
http://www.lgbtmap.org/equality_maps/profile_state/WA.

\textsuperscript{58} Legal Voice assisted with the passage of Washington state’s comprehensive anti-discrimination law in 2006, codified as RCW 49.60.030.

\textsuperscript{59} Taylor N.T. Brown, Adam P. Romero, and Gary J. Gates, “Food Insecurity and SNAP Participation in the LGBT Community,” (The Williams Institute, 2016) https://williamsinstitute.law.ucla.edu/research/lgbt-food-insecurity-2016/ (“LGBT” rather than “LGBTQ” is used to reference the study’s findings, which were limited to LGBT individuals.);

\textsuperscript{60} Caitlin Rooney, “Protecting Basic Living Standards for LGBTQ People,” (Center for American Progress 2018)

\textsuperscript{61} Id.

\textsuperscript{62} Id.
\end{flushleft}
federal levels. This proposal undermines our shared values, and would make our nation hungrier, sicker, and poorer.

Sincerely,

Rosann Mariappuram
If/When/How Reproductive Justice Fellow
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Founded in 1978, NCADV is the oldest national grassroots domestic violence organization in the United States. We lift up the voices of victims and survivors and are a catalyst for changing American society to have zero tolerance for domestic violence. NCADV strongly opposes the proposed rule for a number of reasons.

The chief of these is that the proposed rule traps victims and survivors in abusive relationships. Ninety-nine percent of victims of physical intimate partner violence also experience economic abuse. Abusers sabotage victims’ employment, restrict victims’ access to resources, and otherwise make their victims economically and financially dependent upon them. With no resources or access to economic supports, victims and survivors are trapped in abusive relationships; the impact of economic abuse is compounded when children are involved.

In order to escape from abusive relationships, survivors and their children, immigrant and otherwise, often rely temporarily on vital programs such as SNAP, housing, and other critical supports to fulfill their basic human needs. While the new rules would be waived for victims and survivors applying for green cards through the VAWA self-petition process and for victims and survivors with U visas, most victims and survivors do not use these mechanisms for a variety of reasons.

The proposed rules will ultimately undermine victim safety, pitting a victim’s immigration status against her basic human needs and those of her children. The Department of Homeland Security and USCIS should withdraw their current proposal, and instead promote policies to further the well-being, independence, safety and best interests of immigrant victims and their children.
December 7, 2018

Submitted via www.regulations.gov

Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2010-0012; RIN 1615-AA22; Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

The National Resource Center on Domestic Violence (NRCDV) submits the following comments in response to the Department of Homeland Security’s Notice of Proposed Rulemaking: Inadmissibility on Public Charge Grounds; DHS Docket No. USCIS-2010-0012; RIN 1615-AA22; published in the Federal Register on October 10, 2018. We strongly oppose the proposed rule due to the dangerous impact the proposed rule will have on immigrant victims of domestic violence and urge you to withdraw it.

I. Introduction and Purpose.

For more than 20 years, NRCDV has been a comprehensive source of information for those wanting to educate themselves and help others on the many issues related to domestic violence. Through its key initiatives and special projects, NRCDV works to improve community response to domestic violence and, ultimately, prevent its occurrence. Our comprehensive technical assistance, training and resource development are a few examples of the many ways in which NRCDV broadly serves those dedicated to ending domestic violence in relationships and communities. As part of our core promise statement, NRCDV centers and amplifies the voices of traditionally underserved and marginalized communities in an effort to strengthen and transform efforts to end domestic violence for ALL victims and their children.

Gender-based violence and intimate partner violence are a dangerous epidemic. Gender-based violence is the umbrella term under which other forms of violence are included. Gender-based violence is a phenomenon deeply rooted in gender inequality and continues to be one of the most notable human rights violations within all societies. Gender-based violence is violence directed against a person because of their gender. Both women and men experience gender-based violence but the majority of victims are women and girls. Acts of gender-based violence are emphasized as resulting in ‘physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether
occurring in public or in private life. Global estimates published by the World Health Organization estimate that 1 in 3 women have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime.\(^1\) Globally, as many as 38% of murders of women are committed by a male intimate partner.\(^2\) In the U.S. alone, domestic violence affects more than 12 million people each year and more than one in three women and one in four men have experienced rape, physical, violence, or stalking by an intimate partner in his or her lifetime.\(^3\)

A recent World Health Organization (WHO) global review of available data estimates that 26% of women in Eastern Europe and 23% of women in Central Asia have experienced either physical and/or sexual violence by an intimate partner or sexual violence by a non-partner.\(^4\) 16% of women in Poland and 26.8% of women in Norway reported that they had experienced some form of physical and/or sexual violence by a partner.\(^5\) The Northern Triangle region in particular has some of the highest femicide rates, with El Salvador having the third-highest rate of violent deaths of women in the world in 2015, while Honduras ranked fifth.\(^6\) Thirty-seven percent of Arab women have experienced some form of violence in their lifetime and limited reporting suggested the percentage might be higher.\(^7\) WHO reports that violence is a common theme for all the individuals leaving their country, and returning to the country is particularly dangerous for women, with fear of retribution for trying to leave, revictimization, and death. With physical and sexual violence also comes the enormous economic impact.\(^8\)

**II. The public charge rule will harm victims of domestic violence and sexual assault and impose long-term economic costs on our communities.**

While we know that domestic violence and sexual assault occurs across the socio-economic spectrum, there are unique challenges and barriers at the intersection of these forms of violence and economic disadvantage. Significant numbers of low-income women are abused or assaulted, and the violence perpetrated against them can make it nearly impossible to climb out of poverty.\(^9\)

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\(^2\) Id.


For example, many abusive partners, in order to exercise and maintain control over their partner and their children, will actively seek to prevent and sabotage their partner from attaining economic independence or stability by limiting their access to financial resources, interfering with employment, ruining credit, and more. Abuse can also result in victims who were not previously considered low-income falling into poverty. Ending an abusive relationship may mean losing not only access to a partner’s income, but also the abuse victim’s housing, employment, health care, or child care.

Furthermore, victims often incur substantial out-of-pocket costs while navigating medical, mental health, relocation, and other systems. To attain safety and justice victims may also pursue legal remedies, which can be expensive. Poverty and economic instability mean that victims may not have the time, space, or resources needed to heal. Public benefits allow victims to take care of themselves and their families, but also provide an essential bridge to safety and long-term economic stability.

A recent report from the Institute for Women’s Policy Research (IWPR) examined the education, career, and economic effects of intimate partner violence on victims. Nearly three in four (73%) respondents said they stayed with their partner longer or returned to them because of financial problems; among these respondents, 50% said they spent at least two more years with their partner. Seventy percent of victims said their abusers took money from them against their will over the course of their relationships, such as their paycheck or savings. Eighty-two percent of respondents said their abuser damaged, destroyed, or took their personal property. Twenty-two percent of those who experienced property theft or destruction estimated the value of this property to be more than $10,000. Fifty-nine percent of respondents said they had an abusive partner who harmed their credit score in one or ways, such as not paying bills or paying them late, taking out more credit, maintaining high credit card balances, or defaulting on a loan.

Immigrant victims are some of the most vulnerable and exploited victims. Abusers often exploit victims’ immigration status as a tactic of control, leaving the victim afraid to seek services or report the abuse to law enforcement and making them fearful of assisting with the investigation and prosecution of these crimes. Abusers also interfere with meaningful pathways to status by hiding documents, providing misinformation, limiting access to employment or financial

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10 Id.


12 Id.

13 Id.

14 Id.

15 Id.

resources, and threatening to separate victims from their children. For many victims this is a daunting experience and they find themselves isolated, without a support system, and sometimes with an unfamiliar language.

Some victims may be able to seek victim-specific forms of immigration and are exempt from the public charge ground of inadmissibility, but we know a large number of victims will apply in other categories. These victims and their families will all suffer as a consequence of the new rule expansion. Victims 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. Even in instances where victims have secure immigration status and the proposed rule does not directly apply to victims themselves, their family members who may be seeking admission or permanent residence, such as those sponsored by victims or those living in their households, will be impacted.

Research and experience tell us that the public charge rule will deter victims 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. According to a recent study the lifetime economic cost of IPV to the U.S. populated is $3.6 trillion dollars. We know that preventing intimate partner violence is possible, and not only would it reduce the cost to society but also allow victims to live safely and thrive in their communities. In the Center for Disease Control’s own Preventing Intimate Partner Violence Across the Lifespan technical package, they note that some of the strongest evidence based prevention practices include strong economic supports for families, including work-family supports and safe housing options, elimination of inequality across gender, racial/ethnic, and income groups, and support for victims to increase safety and reduce harms. This highlights what we already know: that improving financial stability can reduce financial dependence and also provide many more alternatives to unhealthy relationships.

Due to the prevalence of domestic violence and sexual assault, Congress, the Federal Government, states, local jurisdictions, and 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 align with the goal of these vital federal and state protections and services that support victim safety and recovery from trauma, healthy families, and violence prevention, and no additional restrictions should be imposed.

The proposed public charge rule itself outlines the desire for immigrants to be self-sufficient, but for many victims, public benefits provide the other pathway available to economic sufficiency. The proposed rule will impose long-term economic costs on our communities due to increased injury and health consequences of unmitigated trauma.

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III. The public charge rule will discourage victims from utilizing safety net benefits which many victims rely on 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. A recent report surveyed victims who called the National Domestic Violence Hotline, and the results were similar to the results of the IWPR report. Victims surveyed commonly reported that they experienced at least one form of economic instability in the previous year, including insufficient food, an inability to pay the full amount of their rent/mortgage, an inability to pay the full amount of a utility bill, and not being able to afford needed medical care. Victims with children were significantly more likely to experience economic instability and also reported significantly more types of financial strain than victims without children. Victims’ ability to meet basic needs is central to their decision-making about whether or not they can leave an abusive relationship. Two-thirds (67%) of victims surveyed said that they stayed longer than they wanted or returned to an abusive relationship because of financial concerns, such as not being able to pay bills, afford rent/mortgage, or feed their family.

Access to economic security programs like Temporary Assistance for Needy Families, which provides direct financial assistance to families living in poverty, Supplemental Nutrition Assistance Program, affordable healthcare (through Medicaid, Medicare, or the Affordable Care Act), housing assistance, and other programs are critical in providing increased economic stability for victims. The vast majority (90%) of victims surveyed said that public benefits are “very much” (78%) or “somewhat” (13%) important for being able to provide basic necessities. A survivor reported “When I was in an abusive relationship, I was unable to work outside of the home at all. I would have died without public benefits.” These programs help victims afford food, housing, and healthcare and are a critical bridge to safety and stability as they work to heal from the violence.

A. Supplemental Nutrition Assistance Program (SNAP)

In 2017, 40 million people lived in a food-insecure household (meaning that their family struggled to acquire enough food to meet their family’s needs). Many of these individuals are survivors of violence. 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 and take steps toward independence. Individuals experiencing food

21 Id.
22 Id.
23 Id.
24 Id.
25 Id.
26 Id.
insecurity have significantly higher levels of intimate partner violence or stalking within the last 12 months than people who were food secure.  

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. 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.

B. Housing

Housing assistance is a vital resource for victims, 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 victims is safe housing. A study of homeless women with children found that 80% had previously experienced domestic violence. In a single day, domestic violence programs across the United States received but were unable to meet nearly 7,500 requests for housing services. The inability to find and maintain affordable housing puts victims at extreme risk of homelessness. Studies show that as many as 57% of all homeless women report that domestic violence was the immediate cause of their homelessness, and victim service providers, advocates, and allies across the United States report that victims became homeless as a result of sexual violence.

Domestic and sexual violence may be forced to leave their housing and/or employment as a result of the violence, and are at heightened risk of additional violence when economically unstable. The dynamics of violence often lead of poor credit and ruined rental histories, making it harder for survivors to be able to access housing at all. Landlords are often quick to evict victims when calls to law enforcement implicated nuisance ordinance laws, and subsidized and affordably housing can quickly be terminated due to behavior by the abuser. One study found that long-term housing subsidies reduce intimate partner violence more than transitional housing or rapid re-housing.

Without housing, many victims report that other services to address the violence were not likely to be helpful. For many victims, the decision to leave abuse hinges on the question, “But where

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would I go?” Housing assistance provides the answer that victims need, and creates a pathway to safety.

C. 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.35

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.36

D. 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.37

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.38 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.39 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.40 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 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.

E. Hindering Access to Economic Supports Undermines Survivor Safety

As this data illustrates, economic resources play a critical role in supporting women’s safety.41 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.42

IV. 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,43 and will continue to have, a significant detrimental impact on survivors of domestic violence and sexual assault.

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41 See Eleanor Lyon, Poverty, Welfare and Battered Women: What Does the Research Tell Us?” National Electronic Network on Violence Against Women 1 (Dec. 1997). (“Several studies in the past ten to fifteen years have documented the importance of economic resources for battered women’s decision-making”).


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 victim of violence, 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.

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 Marium Durrani to provide further information

Sincerely,

The National Resource Center on Domestic Violence
Marium Durrani
Director of Policy
mdurrani@nr柳v.org
Office: 800-537-2238 ext. 202
Dear Chief Deshommes:

The Tahirih Justice Center (Tahirih) is pleased to submit the following comments in response to USCIS’ Proposed Rulemaking regarding Inadmissibility on Public Charge Grounds, Docket No. USCIS-2010-0012, RIN 1615-AA22, published in the Federal Register on October 10, 2018.

I. Introduction

Tahirih is a national, nonpartisan policy and direct services organization that has assisted over 25,000 immigrant survivors of gender-based violence over the past twenty-one years. Our clients endure horrific abuses such as human trafficking, domestic violence, sexual assault and other crimes.

By law, those deemed likely to become a “public charge” by the Department of Homeland Security (DHS) are barred from permanent residency. To determine if an applicant is likely to become a public charge, DHS currently considers applicants’ use of certain benefits as a factor. Due to the dynamics of gender-based violence, immigrant survivors such as our clients are often indigent and rely heavily on public benefits to get back on their feet after fleeing abusive homes with their children. Fortunately, Congress recognized this reality by expressly exempting survivors from the “public charge bar” to lawful permanent residence if they apply as asylees and through laws including the Violence Against Women Act (VAWA) and Trafficking Victims Protection Act (TVPA).

For a variety of reasons, not least of which may be manipulation by abusers, survivors might pursue permanent residence through other channels that do subject them to the bar. Yet, for any survivor, regardless of visa category, public benefits can serve as a critical lifeline. Ready access to benefits is especially essential for those whose abusers deliberately keep them in a perpetual state of isolation and economic dependence. USCIS’ mere proposal to consider applicants’
use of a broader range of benefits against them is already deterring their use by survivors, including both those who are and who are not subject to the bar.

As an organization that serves immigrant survivors of gender-based violence, Tahirih firmly opposes USCIS' proposal and we urge USCIS to abandon it in favor of policies that encourage all indigent survivors to get the help they need to escape violent homes.

II. Survivors of gender-based violence are overwhelmingly indigent as a result of abuse and will be disproportionately harmed by the proposed rule.

A hallmark of domestic violence is perpetrators’ use of both acute and chronic threats of harm to keep survivors in a state of isolation, poverty, and economic dependence. Abusers condition survivors to expect brutal retaliation for either applying for a work permit, or for seeking employment if already eligible to work. Perpetrators are commonly known to hold survivors’ documents hostage, further preventing them from securing employment as a logistical matter and - by design - all but guaranteeing their dependence on them indefinitely. The paralysis survivors experience is compounded when children are involved, especially when the only alternative to a violent home is homelessness.

Survivors who are authorized to work face additional challenges to obtaining and maintaining employment. They might frequently or abruptly miss work due to the violent, unstable circumstances at home, making them vulnerable to termination by employers. With a limited ability to earn income independently and consistently, public benefits are essential to helping survivors escape abuse and start rebuilding their lives. As explained further below, the proposed rule is ill-conceived as survivors should not be forced to ‘choose’ between a violent home and homelessness to protect their Green card eligibility.

III. The proposed rule is already having a “chilling effect” on survivors who are forgoing critical services to avoid risking denial of permanent residence.

The chilling effect on survivors’ use of benefits is already in full force, even though the proposed rule has yet to go into effect. Mere issuance of the proposed rule has rendered even survivors who are exempt from the “public charge” bar more vulnerable to ongoing abuse with no end in sight. WIC, a program that provides nutrition support to infants and pregnant women, reports that local offices throughout the country have received “panicked calls from both documented and undocumented immigrant families demanding to be dropped from the[ir] rolls” due to news about the new public charge rule. Up to a 20% drop in enrollment is being reported by agencies in 18 states, who largely attribute this change to the new policy. If a proposed policy can have such a dramatic effect on traumatized immigrant mothers seeking life-saving assistance for themselves and their infant children, then the number of individuals who forgo much-needed services will undoubtedly skyrocket if the rule is finalized.

One Tahirih attorney reported that over the past month, every caller she spoke with expressed concern about renewing benefits, regardless of whether they are subject to the public charge bar. Another indicates that even clients who are not subject to the bar, whose children
clearly qualify for and desperately need benefits in order to eat and receive medical care, are debating whether to-reapply once their benefits expire.

In one case, a client, Emma*, was the victim of sex trafficking by her husband, a US citizen. She was finally able to escape to a women’s shelter with her two young sons in April 2018. When her time at the shelter was nearing an end, the shelter offered Emma housing assistance through its program that covers rent for a specified amount of time, until survivors can get back on their feet. Emma contacted Tahirih for legal help and explained to her attorney that she would not participate in the housing assistance program because she feared it would jeopardize her immigration case. Despite assurances that as a T visa and VAWA Self-petitioner, Emma was exempt from the public charge rule, Emma was willing to become homeless with her two children, and potentially return to sex slavery to avoid risking deportation. Over the course of several months, Emma’s attorney and caseworker were finally able to convince her that she should accept the shelter’s help. She is now living in housing subsidized by the women’s shelter and working toward rebuilding her life free from violent sexual exploitation.

Sarah* was granted asylum based on severe sexual abuse. She received SNAP, but because of the proposed public charge rule, she is extremely hesitant to re-apply for herself and her two children who will soon be joining her here. Sarah fought so hard to win asylum that she would rather she and her children go hungry upon their arrival in the US, than risk forcible return to persecution in their home country. Sarah’s attorney continues to try to convince her that fortunately, they are exempt from the rule as asylees, but she has yet to make a decision about how to proceed.

The chilling effect is so potent that it is extending even beyond the fear of using public benefits. About a month ago, a woman contacted Tahirih in search of legal help, and asked if we receive government grants. She was hesitant to speak with us because she feared that DHS might consider receipt of our services as the use of public benefits, and that her Green card application would someday be denied as a result.

IV. Policies that discourage the use of public benefits are detrimental to both survivors and society as a whole.

a. Harm to survivors

The harm inflicted by the proposed “public charge” rule will be widespread - among survivors of violence, US citizens, and those with lawful status within households where family wish to seek status in the future. For example, the rule might deter a US citizen survivor of sexual assault from accessing benefits to help alleviate physical and psychological trauma, for fear that her actions could be used against a family member someday.

As explained above, perpetrators of gender-based violence commonly manipulate survivors into remaining isolated and financially dependent on them. Access to housing and food assistance, mental and medical services, and other benefits is vital to informing survivors’ decision-making, and in lifting them out of violence and supporting their healing. Health care alone, including prenatal care, is particularly critical for survivors. Survivors and their children face dire threats to their health
and safety both acutely and over the long-term. According to the World Health Organization, common medical issues for survivors of domestic violence include chronic pelvic, back, and abdominal pain, memory loss, difficulty walking, headaches, irritable bowel syndrome, depression, anxiety, sleep and eating disorders, and gastrointestinal disorders among others.\textsuperscript{iv}

If survivors are too fearful of using benefits, they will remain trapped within abusive homes where perpetrators can continue to abuse them with impunity. The role of economic resources in promoting women’s well-being and safety from violence cannot be overstated.\textsuperscript{v}

b. Harm to society

Society as a whole will also suffer as a result of the proposed rule. According to Zach Hennessey, Vice President of Programs and Services at the largest WIC provider in New York State, “One way or another society is going to pay for this...It’s very expensive for a baby in the NICU. It’s very expensive when a child’s developmental needs aren’t met, or there’s a severe maternal morbidity event.”\textsuperscript{vi}

No sound policy should have the highly undesirable effect of sabotaging federal and state assistance programs for vulnerable potential recipients. Housing instability overburdens crisis response and public safety systems, and leads to more incidence of debilitating medical conditions and emergency room visits. The proposed rule will exacerbate and prolong child poverty and its accompanying, long-term consequences. Poverty impacts children’s educational and eventual job success, family strength, and the ability of individuals to meaningfully invest in their communities. By DHS’ own admission, the rule has the potential to “decrease disposable income and increase the poverty of certain families and children, including U.S. citizen children.”\textsuperscript{vii}

V. For some survivors, denial of permanent residence and deportation means loss of child custody to a violent abuser.

The ‘choice’ to risk eventual deportation in order to access public benefits in the short term is an untenable one for many survivors. Deportation is devastating for mothers who fear loss of custody of their child upon deportation to a violent abuser. In the past two weeks, Tahirih received two calls from women who explained that their abusers threatened to have them deported, and to have their children taken away from them. One client, Rachel* from Central America, is battling for custody of her five US citizen children despite the fact that her abuser is extremely violent. The abuse she survived includes punching, choking, rape, and imprisonment for days without food. Rachel’s abuser is now relentlessly pursuing custody of their children and trying to get her deported to punish her. If Rachel is deported, she will face further trauma by being separated from her children.

VI. Conclusion

For the reasons described above, we urge DHS to abandon this proposal consistent with its own view that it will likely lead to instability for families. We are gravely concerned about the impact of the rule on families which include survivors of violence and their children who are already
traumatized and in desperate need of help. No law or policy should categorically discourage survivors from accessing critical, life-saving services and should instead aim to do the opposite.

We look forward to your detailed feedback on these comments, and please contact me at irenas@tahirih.org or 571-282-6180 for additional information.

Respectfully,

Irena Sullivan
Senior Immigration Policy Counsel

*Pseudonym

i Currently, only the use of cash assistance and/or government-funded long-term institutional care count against an applicant.

ii For example: family or employment-based visas, diversity visa applicants, etc.


iv https://www.who.int/news-room/fact-sheets/detail/violence-against-women


vi See FN iii.

December 10th, 2018

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 the Texas Council on Family Violence, 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.

The Texas Council on Family Violence (TCFV) is one of the largest domestic violence coalitions in the nation, with a membership comprised of family violence service providers, supportive organizations, survivors of domestic violence, businesses, communities of faith and other concerned citizens.

On behalf of these Texan programs serving more than 71,000 victims of domestic violence in 2017 and TCFV’s over 1000 individual members, we write to express our opposition to the changes regarding “public charge.” TCFV shares grave concerns with our constituency and field regarding the immense harm that the proposed public charge rule will have on immigrant survivors of domestic violence.

Many among our population whom call Texas home are connected to immigrant communities. More than one out of every four Texas children live in a ‘mixed family’ in which at least one parent is not a U.S. citizen. This rule change could affect 1.8 million Texas children- more than 9 out of 10 of these children being U.S. citizens.

As a coalition engaged in policy advocacy and rooted in Texas since 1978, TCFV is particularly aware of the chilling effect such proposals and measures have on public welfare and safety in our state- the ripples reaching far beyond the ‘intended’ group and purpose, affecting most of our communities. And while the more far reaching effects of this proposal go beyond victims of domestic violence and their children, we are keenly aware of the entrapment and isolation such suggestions have on the most vulnerable families experiencing violence and their actual ability to seek life-saving help.

This chilling effect is deeply concerning. Domestic violence is unfortunately widespread in our Texas communities. 136 women were murdered by their current or former male partners in Texas in 2017. Even with the generosity from our State and federal government funding services, our programs turned away 41% of requests for shelter due to lack of space in 2017. We can’t afford to cause pause for any victims needing and seeking help.
This rule represents a significant change in current policy and will harm victims of domestic violence 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, 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. 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 their families, but will also impose long-term economic costs on our communities due to increased injury and health consequences of unmitigated trauma.

For the reasons detailed in these comments regarding the harm that the proposed public charge rule will have on survivors of domestic violence in Texas, we 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.

We urge that the current guidance around public charge remain in effect. 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.

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 our Policy Team at 512.794.1133 or policy@tcfv.org to provide further information

Sincerely,

Gloria Aguilera Terry, CEO
Texas Council on Family Violence
December 10, 2018

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

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

Dear Sir/Madam:

On behalf of Ujima, Inc., The National Center on Violence Against Women in the Black Community (Ujima), 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.” Ujima has grave concerns regarding the immense and irreparable harm that the proposed public charge rule will have on immigrant survivors of domestic violence and sexual assault.

Ujima is a national, culturally specific services issue resource center that provides support to service providers, policy makers, advocates and the community at large to problem-solve and address the unique challenges faced by the Black Community as it relates to domestic, sexual, and community violence. Ujima acts as a voice for the African Diaspora by engaging the Black Community at its core. Adhering to the principle of collective work and responsibility, we work to heal our communities through the engagement of its people. We define the Black Community to include African-Americans, Africans and African Immigrants, Afro-Caribbeans, and Afro-Latinx. The identification of these sub-groups is meant to serve as a starting place and not as a way to limit the broad breadth and expansive diversity of the diaspora.

The proposed rule further complicates the identification of survivors of intimate partner violence within the Black Community and denies access to essential resources that are a lifeline for survivors and their children. There has been very little recognition of the diversity among the Black Community in the U.S.
From 2000-2010, the African Foreign-Born population has increased exponentially. Yet, the term “Black” continues to be used interchangeably with “African-American” in the U.S., referring solely to Black Americans—descendants of slaves. African immigrants are often subjected to “ethnic lumping” which serves to categorize all Black people as a monolithic racial group. Our community is much more diverse including Afro-Hispanics, Afro-Carribbeans, and Foreign-Born or first-generation Africans. Historical and cultural differences between the communities are as vast as the countries they represent and the languages they speak. Little research exists about the impact of domestic violence on these communities and the way in which services should be framed in order to best meet their needs.

Our parent organization, The DC Coalition Against Domestic Violence, has done extensive work with the Ethiopian community and from our interviews with survivors, we discovered the four greatest barriers to safety for Foreign-Born Africans, Afro-Carribbeans, and Afro-Latinx are: (1) cultural attitudes regarding the subjugation of women as property; (2) no access to services in the survivor’s first language and/or limited interpreters who speak the native language; (3) fear of interacting with social and judicial systems due to a fear of deportation and/or lack of understanding on how to navigate them; and (4) little cultural understanding from domestic violence service providers/shelters. The public charge would essentially prohibit our ability to effectively provide holistic services and implement prevention and intervention strategies to immigrants within the Black community.

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 experiencing rape, physical violence, or stalking by an intimate partner each year in the United States. There is a dearth of statistical data and research that examines the prevalence of intimate partner violence in Afro immigrant communities due to a myriad of factors that include, but are not limited to “ethnic lumping”\(^3\) which ironically produces a double bind of being subjected to institutional and cultural biases by service providers and systems, that could ultimately result in deportation. Seeking life sustaining assistance is a protective and risk factor that requires courage during crisis.

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.

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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 for individuals and families can help reduce and prevent intimate partner violence. 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. 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, and victim service providers, advocates, and allies across the United States report that survivors became homeless as a result of sexual violence. 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. Without housing, sexual assault

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victims report that other services to address the violence were not likely to be helpful. 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 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. 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. 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. 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. Public funding paid 37% of this total cost. It is clear that Medicaid coverage helps survivors access

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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 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 re-

\textsuperscript{14} Goodman, S., supra, Note 10 at 11
stabilizing 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.

Hindering Access to Economic Supports Undermines Survivor Safety

As this data illustrates, economic resources play a critical role in supporting women’s safety. 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.

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. Victims who might not have previously

15 Id. At 13
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”).
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.\textsuperscript{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:

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.\textsuperscript{21}

Reproductive coercion and/or sabotage in the name of a “woman’s duty”; cultural beliefs; spiritual guilt, or other tactics are often used to keep women out of the workforce and dependent on the abuser for basic needs for not only her, but the children as well. It becomes cost prohibitive to seek work outside the home when childcare would be needed for the children. The more children a victim has, the less likely she will re-enter the workforce or attain her educational goals and the more isolated she will become in order to take care of the children.

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.

The lack of access to public benefits that can make a life or death difference are critical. A survivor we worked with stashed cash under her mattress when she could to prepare for escape so that she could leave safely one day. She was afraid to inquire about public benefits.


benefits or got to a shelter for fear of deportation as he abuser constantly threatened her about. Her abuser found the money, took it from her and almost killed her. She had to almost die to get help.

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.

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 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.

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

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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.

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 me to provide further information.

Sincerely,

Gretta Gardner, Esq.
Deputy Director
Ujima Inc., The National Center on Violence Against Women in the Black Community

Cc: file

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November 28, 2018

Submitted via VIA www.regulations.gov

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

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

To Whom it May Concern:

Jane Doe Inc., (JDI) the Massachusetts Coalition Against Sexual Assault and Domestic Violence, submits these comments in strong opposition 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. JDI has grave concerns regarding the significant harm that the proposed public charge rule will have on immigrant survivors of sexual and domestic violence.

JDI is a membership organization comprised of 57 local, community-based sexual and/or domestic violence programs located throughout the Commonwealth of Massachusetts. Our member programs serve thousands of survivors of sexual and domestic violence each year, and they provide support and services to family and friends of survivors, training and education for community stakeholders and promote awareness and prevention.

As the only statewide sexual and domestic violence coalition in Massachusetts, we write to express our vehement opposition to this proposed rule. According to census data, there are more than half a million non-citizens residing in Massachusetts. The proposed rule would have a devastating impact across the country and in Massachusetts and will harm immigrant survivors of sexual and domestic violence as they seek safety and healing after violence. While some survivors may be exempt from the public charge ground of inadmissibility if they are seeking protections under the Violence Against Women act, many immigrant survivors do not seek these protections. Sexual and domestic violence impacts all communities; survivors may be US citizens, permanent residents, sponsored by family or employers, foreign students, temporary workers or visa applicants. The public charge rule will have impacts on survivors across a multitude of circumstances and will result in deterring survivors from accessing life-saving services to help the escape and heal from violence. We are already seeing the impact in our communities—survivors who are withdrawing from needed economic benefits or no longer accessing sexual and domestic violence services for the fear of how it may effect their status. The proposed rule will not only impact the lives of survivors and exacerbate the trauma they are experiencing, it will have a long term effect on our economies.
resulting from untreated health needs of victims and their families.

Sexual and domestic violence occurs at high rates across the country. In MA, nearly 1 in 2 women and 1 in 4 women have experienced sexual violence other than rape in their lifetimes. Nearly 1 in 3 women and 1 in 5 men have experienced rape, physical violence and/or stalking by an intimate partner. More than 1 in 7 women in MA have experienced rape in their lifetime. Local, community-based organizations across the Commonwealth provide services and supports to all survivors in their communities. The proposed public charge rule undermines the work of local programs to increase safety and justice for survivors and creates a chilling effect.

Under the proposed rule, survivors will be discouraged from accessing benefits that are critical to their ability to seek safety from violence and abuse and assistance and support for trauma. The public charge rule expands the range of economic assistance programs that would count against a person when the public charge determination is assessed. Many survivors of sexual and domestic violence experience extreme economic impacts which influence the choices available to them and the decisions they must make. Lack of financial resources can prevent domestic violence victims from leaving a violent situation. And when they do leave or try to heal after violence, basic economic support may be needed to ensure that they have a sustainable pathway to safety.

- Housing assistance and support are critical to many survivors, and may prevent homelessness. Housing stability is critical for survivors to be able to address other needs related to the experiences of violence—to access care for themselves and/or their children, maintain stable employment, and participate in criminal and civil justice proceedings.

- Food/nutrition assistance is similarly important to survivors who have lost economic resources and are trying to maintain their own health and that of their children

- Health, including mental health, services are very important to survivors of violence, so that they may seek treatment for both physical injuries and the related conditions that people experience as a result of experiences of violence. People who experienced these forms of violence, in one study, were more likely to report frequent headaches, chronic pain, difficulty sleeping, activity limitations, poor physical health and poor mental health than those who had not. CHIP is also important for health outcomes for children. Those who experience or witness violence in their homes may need CHIP for access to resources for overcoming trauma and abuse. CHIP should absolutely not be included in the public charge assessment.

Perpetrators of sexual and domestic violence may also withhold economic supports and intentionally sabotage their victim’s work, credit, and other sources of economic stability. Many survivors would have never had to access public benefits but for the intentional, economically destructive tactics of abusers. By heavily weighting the negative factors laid out in the proposed rule, especially those related to annual income level, disproportionate harm will come to survivors of sexual and domestic violence.

A stable immigration status is critical for immigrant survivors to be able to access employment,
housing and general economic stability in order to escape violence and/or overcome the trauma that they have experienced. Federal laws such as the Violence Against Women Act, the Trafficking Victims Protection Act, and the Victim of Crimes Act provide important guidance on the protections required for immigrant survivors and should be considered in any final rule.

Jane Doe Inc. and our member programs strongly oppose any changes to the public charge rule. The proposed rule will prevent survivors from accessing critical protections that they need and deserve. These changes are already having, and will continue to have, a significant, detrimental impact on immigrant survivors in Massachusetts. They will expand the application of the public charge test to encompass anyone who simply receives assistance for health, nutrition or housing to meet their basic needs. There is no apparent issue with the current guidance and no persuasive argument for change.

We urge the Department to reject the rule in its entirety and maintain the current guidance around public charge.

We appreciate the opportunity to comment on the proposed rule. If you have questions, please contact me at mgallagher@janedoe.org or 617-557-1808

Submitted by:
Maureen L. Gallagher, Policy Director
Jane Doe Inc, the MA Coalition Against Sexual Assault and Domestic Violence
14 Beacon Street, Suite 507, Boston, MA 02108

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December 10, 2018

Submitted via [www.regulations.gov](http://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 the Washington State Coalition Against Domestic Violence (WSCADV) 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.” WSCADV has grave concerns regarding the immense harm that the proposed public charge rule will have on immigrant survivors of domestic violence and sexual assault.

WSCADV is the federally-recognized membership organization of non-profit domestic violence programs in Washington State. Founded by domestic violence survivors and their allies in 1990, WSCADV’s mission is to mobilize and support member programs and allies to end domestic violence through advocacy and action for social change. WSCADV has long advocated for laws, policies, and practices that promote safety and justice for all domestic violence survivors. WSCADV’s nearly 70 member domestic violence shelter and advocacy programs across Washington State work directly with survivors of abuse and their children every day to help them get and stay safe, regardless of their background or country of origin.

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 lifetime2 and more than 12 million men and women experiencing rape, physical violence, or stalking by an intimate partner each year in the United States.3 In Washington State, domestic violence shelter and advocacy programs received over 97,000 calls for assistance in a one year period in 2016-2017.4 Additionally, immigrant victims

are disproportionately at risk of severe violence, and are more likely to be killed by abusive partners than U.S.-born survivors in WA. This increased risk is the result of several factors, but WSCADV’s Domestic Violence Fatality Review project has found that greater isolation and fear of immigration consequences are factors that increase safety risks faced by immigrant victims of domestic violence in Washington State—factors that we have reason to believe would be exacerbated by the proposed public charge rule.\(^5\)

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

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for individuals and families can help reduce and prevent intimate partner violence.\textsuperscript{6} 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.

\textbf{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.\textsuperscript{7} 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,\textsuperscript{8} and victim service providers, advocates, and allies across the United States report that survivors became homeless as a result of sexual violence.\textsuperscript{9} 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.\textsuperscript{10} Without housing, sexual assault victims report that other services to address the violence were not likely to be helpful.\textsuperscript{11} 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 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. 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. 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. 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. 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

15 Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults.

that Medicaid increased coverage of individuals with traumatic injuries for acute and post-acute care and protects against unexpected medical bills. 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 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.

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16 Goodman, S., *supra*, Note 10 at 11
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.17 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.18

Hindering Access to Economic Supports Undermines Survivor Safety
As this data illustrates, economic resources play a critical role in supporting women’s safety.19 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.20

17 Id. At 13
19 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”).
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.\(^{21}\) 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.\(^{22}\)

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:

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.\(^{23}\)


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.

Access to safe, affordable housing is consistently identified by survivors and advocates in Washington State as the most significant unmet need and barrier to safety from domestic violence. Housing assistance vouchers are a critical safety intervention for survivors and their children. The following story illustrates the importance of making housing vouchers accessible to all survivors. M and her two daughters were in a very terrible domestic violence situation and needed to get away as soon as possible. M and the girls fled the situation and were able to get secure new housing with the aid of rental assistance and advocacy from a local domestic violence program. M was all set to start school and their new life was starting to pan out. Unfortunately, M’s ex found them. The safety concerns were very high so M knew the best bet was to get her and the family as far away as possible. Her brother, who lives out of state, offered to let them stay with him until they stabilized. With help from her domestic violence advocate, M was able to port her Section 8 voucher to an out of state location and get approved at a new home down there. Advocates were also able to help her get a new birth certificate, and provide gas money for the move. She and her kids are now stably housed at a safe location and ready to start their lives anew. Without the housing assistance, M and her children may not have been able to escape this abusive situation and find safety.

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.

Many survivors of domestic violence not only face the consequences of physical injuries, but often also live with trauma and other psychological impacts of abuse that can have long-lasting or permanent consequences on their ability to lead independent lives. The following is just one example of how abuse can have ongoing medical consequences for survivors: J was the victim of severe domestic violence from her partner N in Washington State. Not only did N terrorize her and her children over the long term, he also beat her so severely that she needed to be hospitalized. N repeated threatened to

beat her to death if he could. J was able to flee, but N vowed to find and kill her. When she did return to the apartment to collect her and her children’s belongings several days later, she found their family photos affixed to the walls with knives, and one photo of her with her eyes cut out. Her belongings were completely destroyed. Though J and her children were able to escape, she has suffered severe trauma as a result of the years of physical and psychological harm N inflicted on her. She has been attending counseling to deal with the ongoing trauma and lives suffers from fear that he might find her again.

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 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.

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.

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 Tamaso Johnson, WSCADV Public Policy Director, at tamaso@wscadv.org to provide further information.

Sincerely,

Judy Chen
Interim Executive Director
Washington State Coalition Against Domestic Violence (WSCADV)