



Richard J. Fiesta, Chair

December 7, 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. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Chief Deshommes:

Thank you for this opportunity to respond to the Department of Homeland Security (DHS) Notice of Proposed Rulemaking regarding “public charge.” The Leadership Council of Aging Organizations (LCAO) is a coalition of 69 national nonprofit organizations concerned with the well-being of America's older population and committed to representing their interests in the policy-making arena. LCAO serves as a source of information about issues affecting older adults and provides leadership and vision as America meets the challenges and opportunities presented by our aging society. Our organizations have expertise in economic security, nutrition and food security, housing, health care, and other issues facing older adults and people with disabilities, and we work to reduce barriers and celebrate the contributions of these diverse populations.

LCAO is strongly opposed to the proposed rule to alter the public charge test, which will both dramatically increase its scope and unfairly target older adults, people with disabilities, and their families who are on the path to citizenship. We urge DHS to withdraw the rule in its entirety.

Under current public charge policy, immigrants who are determined “likely to become primarily dependent on the government for subsistence” can be denied entry into the U.S. or lawful permanent residency status. In making this determination, the only benefits considered are cash assistance, such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF) and comparable state and local programs, and government-funded institutional long-term care (including through Medicaid). The proposed rule would dramatically expand the public charge definition to include immigrants who receive one or more public benefits. This would include even modest use of vital programs like Medicaid, housing assistance, SNAP (Supplemental Nutrition Assistance Program, formerly Food Stamps), and assistance for seniors

who have amassed the work history needed to qualify for Medicare and need help paying for prescription drugs.

Expanding the public charge definition puts older adults and people with disabilities at risk of having to choose between their immigration status and their health, food, or having a roof over their heads—an unacceptable choice. Medicaid is particularly critical to helping people with disabilities, including older adults, live in the community because it covers services and equipment that private insurance does not such as personal and attendant care services, durable medical equipment, and supportive housing services. We must not put access to vital programs at risk or discourage enrollment in public benefits that serve to keep older adults and people with disabilities healthy, together with their families, and safe in their homes.

Already, LCAO members report a widespread “chilling effect” that is causing older adults and their families to forgo benefits due to fear. This puts general public health at risk in addition to the health and well-being of those families.

In addition, the proposed rule details how being an older adult, having a health condition but not having private health insurance, or having limited income and resources would be weighed against immigrants seeking visas or a permanent legal status. It also indicates a preference for English-speaking immigrants, ignoring our nation’s rich history of welcoming and integrating immigrants from every conceivable background and language. We are especially concerned with this proposal’s disproportionate impact on older adults of color.

If implemented, the proposed public charge rule would likewise create significant hardships for immigrants living with physical or mental disabilities and their families when applying for a visa or lawful permanent residency. The impact of the proposed rule on our communities will be broad given that in 2015, nearly 40 million people in the U.S. were living with a disability.¹ First, the proposed rule specifically instructs the government to openly engage in health and disability-based discrimination by assigning negative weight to any medical condition that is likely to require extensive medical treatment or institutionalization in the future, or that will interfere with a legal immigrant’s ability to care for him or herself, attend work or school. This means virtually every person with a disability or significant health condition will have difficulty passing the public charge test. The proposed rule would also undermine our country’s extensive efforts and success in eradicating disability-based discrimination and promoting inclusion of people with disabilities as a result of the landmark Americans with Disabilities Act of 1990 (ADA), and instead reinforce stigma and ignore current and future advancements in medical science and technology that help people with disabilities overcome their limitations and allow them to make significant contributions to our country.

Older adults and people with disabilities enrich our communities and contribute meaningfully to our economy, our culture, and our lives. We must recognize the value of intergenerational

¹ U.S. Census Bureau, 2015, retrieved at https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_1YR_S1810&prodType=table.

families and the critical role family plays in child care, other family caregiving, and household support rather than reject individuals as a burden because of their age, health needs, and language ability. A new estimate shows that nearly 75 percent of people age 62 and older seeking legal permanent residence would have two or more of the proposed negative factors count against them—meaning older adults would be at greater risk of being denied green cards.² Additionally, the proposed rule jeopardizes U.S. citizens' ability to petition for their parents to join them in the U.S. The number of parents of U.S. citizens who have been admitted as legal permanent residents account for almost 15% of all admissions and almost 30% of family-based admissions.³ Families could even be penalized for sharing housing or providing significant support to a parent or grandparent or other family member, as this would increase their household size and force them to demonstrate higher income to avoid being considered a public charge.

Moreover, the proposed rule threatens the well-being of millions of older adults and people with disabilities who rely on direct care workers for critical assistance at a time when our nation is facing unprecedented growth in our senior population due to the aging of the baby boomers. One in four direct care workers are immigrants⁴, and their jobs are often part-time and for too little pay. Home care workers, for example, earn an annual median income of about \$15,000⁵, which is below the proposed rule's new income threshold and thus could be weighed against them in a public charge determination. Moreover, because their wages are so low, over half of home care workers rely on public benefits, including Medicaid and SNAP, to support their basic needs.⁶

The proposed changes to the public charge rule risks suppressing entry into caregiving jobs at a time when the workforce most needs bolstering. By 2030, more than 1 in 5 Americans will be ages 65 and older, and the number of Americans ages 85 and older is expected to triple in the coming decades.⁷ We must do more to improve the prospects of direct care workers, not discourage them further through immigration policies which will likely lead to a workforce shortage and, leave many older adults and people with disabilities without access to the caregiving they need.

For the reasons detailed above, DHS should immediately withdraw this proposal. Communities thrive when every member of the community, including older adults and people with disabilities, can get the care, services, and supports they need to remain healthy and productive.

² Migration Policy Institute, *Guaging the Impact of DHS' Proposed Public-Charge Rule on U.S. Immigration* (Nov. 2018), available at <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.

³ Dept. of Homeland Security, Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics*, Table 7, available at

www.dhs.gov/sites/default/files/publications/2016%20Yearbook%20of%20Immigration%20Statistics.pdf.

⁴ PHI, *Immigrants and the Direct Care Workforce* (June 2017), available at <https://phinational.org/wp-content/uploads/2017/06/Immigrants-and-the-Direct-Care-Workforce-PHI-June-2017.pdf>.

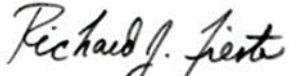
⁵ PHI, *U.S. Home Care Workers: Key Facts* (Aug. 31, 2018), available at <https://phinational.org/resource/u-s-home-care-workers-key-facts-2018/>.

⁶ PHI, *U.S. Home Care Workers: Key Facts* (Aug. 31, 2018), available at <https://phinational.org/resource/u-s-home-care-workers-key-facts-2018/>.


⁷ Population Reference Bureau, *Population Bulletin: Aging in the United States* (Dec. 2015), available at <https://assets.prb.org/pdf16/aging-us-population-bulletin.pdf>.

Thank you again for this opportunity to respond.

Sincerely,

A handwritten signature in cursive script that reads "Richard J. Fiesta".

Richard J. Fiesta
Chair

A handwritten signature in cursive script that reads "Richard J. Fiesta".