December 10, 2018

Honorable Kirstjen M. Nielsen
Secretary
Department of Homeland Security
300 7th St SW
Washington, DC 20024-2511

RE: Proposed Rule: USCIS-2010-0012-0001, Inadmissibility on Public Charge Grounds

Dear Secretary Nielsen:

I am writing to express my strong opposition to the Department of Homeland Security's (DHS) proposed rule, Inadmissibility on Public Charge Grounds, USCIS-2010-0012-0001 (the Proposed Rule), and to urge you to withdraw in its entirety. The Proposed Rule is cruel and does not further any rational government interest. I believe the intent of the Proposed Rule is to instill fear in the immigrant community and weaken safety net programs that Congress enacted to provide health, nutrition, and housing support to eligible recipients, including immigrants.

The Proposed Rule expands the list of federal programs that would be considered in a public charge determination to include non-cash assistance programs Congress established to provide vital safety net benefits that protect individuals and families from poverty and to support work, especially for low-wage earners. Currently, the federal government only considers cash assistance benefits received by individuals such as Supplemental Security Income (SSI) or Temporary Assistance for Needy Families (TANF) and government funded long-term institutional care. Adding non-cash assistant programs, like Medicaid, Supplemental Nutrition Assistance Program (SNAP), Medicare Part D (Low Income Subsidy) and Federal Public Housing, Section 8 Housing Vouchers and Section 8 Project Based Rental Assistance, to the public charge determination, will have devastating impacts on our most vulnerable communities. By adding emphasis on these programs, the Proposed Rule moves away from the traditional and holistic approach to considering what makes an individual a public charge that has worked well and which considers other indicators besides program participation and arbitrary income levels.

The Proposed Rule would have dire consequences for immigrant families who have been part of our communities for decades, while being assured repeatedly by U.S. immigration officials that partaking in benefit programs would not hinder their eligibility to become lawful residents. The authority to institute such drastic changes in law resides solely with Congress, not the Administration. It is a contradiction of our American values to wreak havoc in the lives of millions who help weave our diverse cultural and economic framework.

<u>Undermines Congressional Intent and Exceeds Authority</u>

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The Proposed Rule undermines congressional intent and decades of immigration policy that has historically defined the public charge as an "alien who has become (for deportation purposes) or who is likely to become (for admission/adjustment purposes) *primarily* dependent 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 Rule attempts to adopt a broad definition that Congress has explicitly debated and rejected. While Congress has debated immigration and our public programs for decades, it has never settled on such a broad definition of programs that would qualify someone to be subject to a public charge determination. In fact, the last time this issue came to a debate over 20 years ago, Congress explicitly rejected attempts to legislate such a broad definition. Instead, long-standing federal guidance regarding the application of the public charge test has made clear that federal officials "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." DHS would be foolish to move away from that guidance, especially in light of Congress' own rejection of efforts to do so.

Undermines Critical Programs that Protect the Most Vulnerable

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Immigrants pay billions of dollars in U.S. taxes each year and many work essential but low-paying jobs. Thus programs, such as SNAP and Medicaid, which are targeted in this proposed rule, provide a critical work supplement for these individuals, just as they do for tens of millions of American citizens. Dissuading participation in these programs will never eliminate their need for the essential resources the programs provide. The result of this proposal, besides punishing immigrants for their lawful participation in programs that Congress has not excluded them from, would be to undermine efforts by Congress to reduce hunger and uninsured rates in our communities, including for U.S. citizen children born to immigrant families. If implemented, even DHS acknowledges that this rule will result in a sicker, poorer, and hungrier nation, an outcome that is anathema to the intent of Congress.

These programs are a critical support for individuals and families as they work, attend school, and maintain and improve their health. I am extremely concerned about the effect the Proposed Rule would have on the economic stability of the immigrant community, particularly in Wisconsin. According to the Migration Policy Institute in the State of Wisconsin over 68.5% of U.S. born children of Hispanic descent benefit from TANF, SSI, SNAP and Medicaid/CHIP. Even though the Proposed Rule has not taken effect, there are already reports that families who depend on government assistance programs have begun unenrolling from them. This is especially problematic because these are vulnerable families who greatly depend on programs like SNAP and Medicaid to keep their children fed and healthy. Many of the children who depend on these programs were born in the U.S. to non-citizen parents. The Proposed Rule instills such fear in these parents that many are opting to unenroll their U.S. citizen children, who are legally obtaining benefits, from the programs.
Under current law, undocumented persons are already ineligible to receive SNAP benefits, making the Proposed Rule an unnecassary and cruel effort to penalize members of households that may include someone who benefits from the program. This is heartwrenching and extremely problematic considering that often children and families who depend on SNAP to eat do not have

access to adequate nutrition elsewhere. Not only will the Proposed Rule cause people to unenroll in SNAP, they will also unenroll in other critical benefit programs, like WIC, due to fear, confusion, and lack of understanding of these changes.

In 2017, in my district, more than 1 in 5 households depended on SNAP benefits to feed their families, and in Wisconsin almost 700,000 were provided food assistance through SNAP per month. These families include immigrant families who can likely be affected by the "chilling effect" of the Proposed Rule which will cause those legally eligible for SNAP to unenroll and avoid benefit programs due to fear and confusion. When families unenroll in programs like SNAP, they may seek less efficient and more costly ways to meet their needs. The cost of meeting their needs is then shifted from the SNAP program to local entities, which are already spread thin and at capacity. SNAP is a crucial program for many immigrant families, as it is for American families, and it is cruel to force families into the shadows and deprive them of the means to feed their children. The only achievable outcome of adding SNAP to the public charge determination process would be to worsen food insecurity for millions of vulnerable immigrant families.

Undermines Health Objectives

Incentivizing individuals to unenroll or forgo enrollment in a public benefits program by those otherwise eligible for these programs is costly to the well-being and health of the individuals and families affected by this proposal and to our nation. According to your agency's own estimates, this proposal could lead to "worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence, increased use of emergency rooms and emergent care as a method of primary health care due to delayed treatment, increased prevalence of communicable diseases, increases in uncompensated care in which a treatment or service is not paid for by an insurer or patient, increased rates of poverty and housing instability; and reduced productivity and educational attainment." These impacts only reaffirm that this proposal will do great harm to our communities. For example, at a time when our nation has one of the highest marternal motality rates in the developed world, why would we pursue policies such as this that will dissuade tens of thousands of expecting mothers from accessing healthcare that will benefit them and their U.S. citizen children?

Similarly, in my congressional district (and elsewhere in our nation), we have a severe infant mortality problem. Our babies die at a rate that is significantly higher than the national average and Black infants die at over three times the rate of White infants. The surest way to combat these tragic deaths is by ensuring that women receive adequate essential healthcare services before, between, and beyond pregnancy and not by creating obstacles to access adequate healthcare and fear of losing the opportunity of obtaining legal status. The Proposed Rule needlessly and dangerously undermines Congressional intent and efforts to address this public health imperative by putting another obstacle into participation in Medicaid, which provides healthcare to tens of millions of Americans who don't earn enough when they work to purchase health insurance.

The Proposed Rule is also the antithesis of Congress's intent in establishing the Medicaid program to provide medical assistance to those with insufficient income and resources. In 2016, 6.8 million children with non-citizen parents were enrolled in Medicaid or CHIP. Due to the

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Proposed Rule, these millions of children would be at risk of losing their health insurance, and with it access to routine, high-quality healthcare services, which would likely lead to worse health outcomes and deficiencies in their personal, educational, and professional development. Medicaid is a crucial and indispensable benefit for the many who rely solely on its coverage to access essential healthcare services, including preventative care. The long-term benefits of Medicaid extend well past its beneficiaries' health, including economic gains later in life. A recent estimate showed that 20 percent of young people enlisted in the military, relied on Medicaid just prior to enlistment, helping to make them eligible military candidates. According to a study by the Children's Hospital of Philadelphia, 2.4 million children in veteran families are enrolled in Medicaid or CHIP in all 50 states and the District of Columbia. Additionally, the Center on Budget and Policy Priorities has found that children who benefit from the Medicaid program, do better in school, have lower truancy rates, are more likely to gradate, and earn more as adults. This shows the clear and invaluable reach of Medicaid and the crucial services it provides for millions of vulnerable people who otherwise may not have access to adequate healthcare, including immigrant families and their children. It is reckless and self-defeating for DHS to incentivize immigrant families to unenroll in Medicaid or to punish those who enroll, even though Medicaid plays an integral role in keeping our communities healthy.

Furthermore, I am afraid this proposed rule will also impact refugee individuals and familes that, although exempt, will disenroll from programs for fear of losing their status or affecting a relative's chances of gaining permanent residency. The State of Wisconsin is home to a number of diverse groups of refugees from various countries, the vast majority being from Myanmar (Burma), Laos, Somalia and Iraq.

Based on the evidence DHS has provided, the Proposed Rule will only result in harmful consequences. Again, I urge you to withdraw this ill-conceived proposed rule in its entirety.

Sincerely,

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Gwen Moore
Member of Congress