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November 8, 2019

SUBMITTED TO ELECTRONIC DOCKET

Megan Herndon
Deputy Director for Legal Affairs
Visa Services, Bureau of Consular Affairs
Department of State
600 19th St., NW
Washington, DC 20006

RE: Interim Final Rule
Visas: Ineligibility Based on Public Charge Grounds, RIN: 1400-AE87

Dear Ms. Herndon:

Thank you for the opportunity to comment on the Department of State's (DOS) interim final rule, "Visas: Ineligibility Based on Public Charge Grounds." UnidosUS strongly opposes this rule. If promulgated, this rule would have a devastating impact on legal immigrants, their families, and our communities. The rule would also substantially alter long-standing and well-founded government policy and practices as it pertains to the public charge grounds of inadmissibility. The rule is unjustified, departs from over a hundred years of law and policy, is not supported by available research, and will make immigrants and citizens in their families afraid to seek critical programs and services. We urge DOS to withdraw the rule in its entirety, and to ensure that the long-standing principles clarified in the 1999 field guidance and State Department guidance issued at that time remain in effect.

Since 1968, UnidosUS—formerly known as the National Council of La Raza—has been committed to building a stronger America by creating opportunities for Latinos. In this rich 50-year history, UnidosUS has remained a trusted, nonpartisan voice for Latinos, serving the community through research, policy analysis, and state and national advocacy. We also work closely with a network of nearly 300 community-based organizations in 37 states, the District of Columbia, and Puerto Rico, to serve our community in a variety of areas including civil rights and immigration, education, and health. Many of our community partners provide direct services in these areas. This proposed rule rejects Latinos' vast contributions and represents a potentially cataclysmic shift in the treatment of legal immigrants and their families and would inflict significant harm on our communities.

Last year, our organization submitted the attached comment letter on a proposed public charge rule from the Department of Homeland Security (DHS). We understand that the DOS interim final rulemaking is intended to align the Department's standards with those of DHS. Because the DOS rule is intended to mirror the DHS rule, our objections to the DHS rule are relevant and

applicable. We request that the Department incorporate the attached comment letter as part of the administrative record.

As you are aware, five federal courts have found that the DHS rule violates the Administrative Procedure Act and is contrary to law. The district courts in New York, Washington, and Maryland have issued nationwide preliminary injunctions against the DHS rule, while courts in California and Illinois issued geographically limited injunctions against the rule. DOS should not rely on the enjoined DHS regulation to justify its actions when multiple courts have found that its interpretation is likely unlawful. So long as the DHS rule is enjoined, the DOS's principal justification for issuing the interim final rule fails: moving forward with implementation would conflict with the Department's stated goal of alignment with DHS.

Withdrawing the interim final rule alone is an insufficient remedy. Any change in policy which differs from the May 1999 public charge field guidance[1] will result in one policy being applied to applications processed by consular offices abroad and a different policy to applications processed in the U.S. The State Department's abrupt changes to long-standing standards for evaluating public charge in the January 2018 revisions to the Foreign Affairs Manual (FAM) radically redefined the criteria for admissibility to the United States. Whether or not the DHS rule remains enjoined, any departure of the FAM from the principles articulated in the 1999 guidance will cause chaos and confusion in an already complex legal immigration system and will result in further harm to immigrants and citizens in their families.

Today, close to one in five Americans is Latino.[2] As one of the youngest, fastest-growing segments of the population, Latinos are poised to shape the nation's future.[3] Although nearly two-thirds of Latinos are native-born and about 80% are U.S. citizens,[4] a significant number of our community have immigrant roots and/or have family members abroad whom the proposed rule could adversely affect. The Department's proposed rule, like the DHS rule, amounts to a de facto wealth test and refutes the wisdom of our country's greatest leaders. From the time of our founding, to President Kennedy, to present, President Washington's fundamental premise that "the bosom of America is open to receive not only the opulent and respectable stranger"[5] has not changed, nor can it.

This rule undercuts vital immigrant integration efforts valuable to the long-term health and vitality of the nation. Indeed, Americans consistently rate immigrant integration into the fabric of the nation as a top priority when it comes to immigration policy generally. UnidosUS and its Affiliate Network, for our part, have worked diligently for more than 50 years toward this shared goal; every day our Affiliates and community partners provide services—such as civics and English classes—to facilitate the integration of immigrants into our great nation. In our experiences conducting this work, it is clear that one of the most important ways to advance immigrant integration is to ensure that those with an existing pathway to permanent legal status take the necessary steps to legalize.

The proposed rule would discourage applications from those in our community already present in the U.S. with a family-based path to legalization. Of particular concern is the chilling impact

this rule would have on the use of the DHS-administered Provisional Unlawful Presence Waiver (provisional waiver) program. Since 2013 the provisional waiver policy has served as an effective program to reduce anxiety and concerns of prolonged family separation for certain applicants who are required to complete consular processing abroad. Each year an average of 60,000 individuals with American families seeking immigrant visas concurrently submit provisional waiver applications.[6] The provisional waiver policy has positively impacted immigrant integration efforts by eliminating a significant roadblock—the threat of prolonged family separation—from the legalization process. While nothing in the proposed rule would eliminate the use of provisional waivers, it does nonetheless frustrate its underlying policy objective: it revives many of the underlying concerns about prolonged family separation by establishing a new bureaucratic process that could, once again, necessitate long case adjudication periods while a family member awaits abroad.

This is because there is reason to believe that the rule's impacts would be greatest on immigrant visa applicants of Hispanic origin. Based on available data on undocumented populations in the U.S., we know that potential immigrant visa applicants who could concurrently apply for a provisional waiver are longtime residents with deep American roots. Moreover, despite working hard and contributing to our society, Hispanics earn the lowest wages of any group in the U.S.[7] Among Hispanics, undocumented immigrants earn the least,[8] despite, on the whole, increasing wages for everyone else.[9] It follows that those who earn the least would, on paper, appear to have the fewest family assets and lowest income, making them vulnerable to the new public charge exclusions contemplated in the proposed DOS rule.

While the rule purports to weigh the totality of circumstances, such a process belies the contributions these individuals make to our social fabric. It overlooks the homes they provide and maintain for their American children; the moral and financial support they provide to family members who are pursuing higher education or training; the care they provide for aging or ill relatives; and the loving family bonds they hold with their American family and friends, which long-standing research, including by the U.S. government, has shown to be critical to human development and well-being.[10]

We urge the Department of State to withdraw this interim final rule and the January 2018 FAM instructions. Reinstating long-standing public charge policy as articulated in the 1999 guidance will reduce confusion and support the well-being and long-term success of immigrants and their American families. The historical evidence is clear: this rule will cause unnecessary, lasting harm and destabilize Hispanic communities across the country. We trust that the Department will, as charged in its mission, resolve this issue to advance the interests of the American people, their safety, and economic prosperity.

Should you have any questions regarding these comments, please contact Carlos Guevara, Senior Immigration Policy Advisor, at cguevara@unidosus.org.

Sincerely,

Eric Rodriguez
Senior Vice President, Policy and Advocacy
UnidosUS

Attachment

[1] U.S. Department of Justice, "64 Fed. Reg. 28689," U.S. Government Publishing Office, May 1999, https://www.gpo.gov/fdsys/granule/FR-1999-05-26/99-13202 (accessed Nov. 1, 2019).
[2] UnidosUS interpretation of U.S. Census Bureau data, "2018 American Community Survey 1-Year Estimates."
[3] Ibid.
[4] Ibid.
[5] Papers of John F. Kennedy. Pre-Presidential Papers. Presidential Campaign Files, 1960. Speeches and the Press. Campaign Literature, 1959–1960. Immigration.
[6] U.S. Citizenship and Immigration Services, "All USCIS Application and Petition Form Types" (Fiscal years 2016–2019), https://www.uscis.gov/tools/reports-studies/immigration-forms-data (accessed October 30, 2019).
[7] "Labor force characteristics by race and ethnicity, 2017," U.S. Bureau of Labor Statistics, August 2018, https://www.bls.gov/opub/reports/race-and-ethnicity/2017/home.htm (accessed Nov. 1, 2019).
[8] George J. Borjas, *The Earnings of Undocumented Immigrants*, Harvard Kennedy School Faculty Working Paper Series (RWP17-013), March 2017, https://research.hks.harvard.edu/publications/getFile.aspx?Id=1517 (accessed Nov. 1, 2019).
[9] David Card and Giovanni Peri. "Immigration Economics by George J. Borjas: A Review Essay," *Journal of Economic Literature*, 54 (4) (2016): 1333–49.
[10] National Academies of Sciences, Engineering, and Medicine, *Fostering Healthy Mental, Emotional, and Behavioral Development in Children and Youth: A National Agenda* (Washington, DC: The National Academies Press, 2019), https://doi.org/10.17226/25201 (accessed Nov. 1, 2019).

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November 27, 2018

SUBMITTED TO ELECTRONIC DOCKET

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

RE: Comments on Docket USCIS–2010–0012
Inadmissibility on Public Charge Grounds

Dear Ms. Deshommes:

Thank you for the opportunity to submit comments on the U.S. Department of Homeland Security's (DHS) proposed rule – Inadmissibility on Public Charge Grounds. If promulgated, this rule would have a devastating impact on legal immigrants, their families and our communities. The rule would also substantially alter and modify longstanding and well-founded government policy and practices as it pertains to the public charge grounds of inadmissibility. UnidosUS strongly opposes this proposed rule to drastically expand the definition of what constitutes a Public Charge and urges DHS to rescind this proposal.

Since 1968, UnidosUS—formerly known as the National Council of La Raza—has been committed to building a stronger America by creating opportunities for Latinos. In this rich 50-year history, UnidosUS has remained a trusted, nonpartisan voice for Latinos, serving the community through research, policy analysis, and state and national advocacy. We also work closely with a network of nearly 300 community-based organizations in 37 states, the District of Columbia, and Puerto Rico, to serve our community in a variety of areas including civil rights and immigration, education and health. Many of our community partners provide direct services in these areas. This proposed rule rejects Latinos' vast contributions and represents a potentially cataclysmic shift in the treatment of legal immigrants and their families and would inflict significant harm on our communities.

Today, Latinos represent approximately one in six Americans and are poised to shape the nation's future as one of the fastest-growing segments of the population.[1] Among Latinos, foreign-born Latino households are driving growth in their own right, with an estimated purchasing power of more than $322 billion.[2] In 2015, Latino households contributed $101.8 billion to Social Security and $25.3 billion to Medicare's core trust fund. That same year, foreign-born Latinos contributed a significant $46.2 billion to Social Security and $11.4 billion to Medicare.[3] The latter is noteworthy, as numerous studies have found that eligible immigrants

take far less from these programs, especially Medicare, than they contribute to them annually. Our nation's progress will depend on the continued gains of the Latino community and policies that recognize the contribution of noncitizen parents and their children. Although nearly two thirds of Latinos are native-born and about three-quarters are U.S. citizens,[4] a significant number of our community are immigrants and/or have family members abroad that the proposed rule could adversely affect.

UnidosUS strongly opposes the proposed Inadmissibility on Public Charge Grounds rule because of its anticipated long-lasting negative impact on legal immigration, housing, public health, and our nation's economy. We urge you to consider the following issues through UnidosUS' civil rights perspective, as you consider the proposed changes to the existing rule.

Immigration-Related Concerns

This proposed rule could have a detrimental impact on our legal immigration system by undercutting one of its essential cornerstones: family unity. If implemented, millions of families, including those of mixed immigration status living within the U.S., would find it much more difficult to apply for and obtain lawful permanent residence. Children would pay the steepest price of a policy that undercuts family unity. According to a recent report by the Center for Migration Study of New York, about 5.7 million U.S. citizen children under the age of 18 lived in households with undocumented residents (mostly parents) in 2014.[5] Instead of facilitating the often "preferred" mode of immigration (legal immigration) for those families who today may have a pathway for a green card, the rule could drive individuals further into the shadows. This could lock them out of our civil society, place them at risk of increasingly indiscriminate and unorderly immigration enforcement practices in the interior of the country, and severely jeopardize the wellbeing of the 5.7 million U.S. citizen children living in mixed status families.

- **The proposed rule's stated objective of promoting self-sufficiency is dubious.** While this rule proposes to change how DHS determines whether immigrants are inadmissible as public charges, it more closely resembles a deliberate attempt to prevent specific classes of immigrants from applying for legal permanent residence. By expanding the scope of the inadmissibility ground, the proposed rule goes beyond well-established U.S. Citizenship and Immigration Services (USCIS) guidance and practices to more heavily scrutinize immigrants' financial and health status, English proficiency, and age. This rule would lead to a significant drop in legal immigration, but critically, the enhanced scrutiny will have a disproportionate impact on low-income immigrants, young adults, the elderly, and non-English speakers without a clear articulation of why this change is needed at this time.[6] It should not be lost on anyone that these characteristics align closely with those of certain ethnic groups, especially Latinos.

- **Income thresholds would disproportionately harm legal Latino noncitizens.** This enhanced scrutiny includes the provision of an arbitrary and cumbersome income test, which favors wealthy immigrants over those who seek a path of upward mobility.[7] It is a test that could disproportionately impact Latino families of mixed immigration status because while

they have high labor force participation, they tend to be concentrated in low-wage occupations. For those working families struggling to make ends meet, the barriers imposed by this rule may be too high to overcome.[8] Under the proposed rule, earning less than 125% of the federal poverty level (FPL) — about $31,375 for a family of four, which is more than twice what full-time, minimum-wage work pays—would be considered a negative factor in making a public charge determination.[9] This could potentially single out millions of legal immigrants; an estimated 6.3 million noncitizens (27%) have incomes below this threshold, including about 4.2 million Latino noncitizens.[10,11] This threshold could shut the door to millions of families who today might be eligible to purse family unity through a family-based petition, and further relegate them to the margins of society.

- **The Single positive factor risks creating a negative inference of eligibility.** Living in a household with an income above 250% FPL is the only heavily weighted positive factor for immigrant visa and adjustment of status applicants included under the proposed rule. As it stands, this factor opens the door to a slew of negative consequences. We believe that the proposed rule fails to guard against the establishment of a negative inference of ineligibility for anyone whose household income is between 126% (below is a heavily weighted negative factor) and 249% of FPL, which could lead to the incomplete or improper adjudication of an applicant's case, or proforma application of immigration bonds (see below) in this situations. Importantly, 250% FPL is a threshold most legally present noncitizens are unable to meet: An estimated 2.3 million of the 4 million legally present noncitizens who arrived during the past five years (56%) do not have incomes sufficient to meet the 250% standard, and therefore would be subject to a public charge determination.[12] Of all noncitizens, approximately 12.7 million (54%) had incomes below 250% of the poverty threshold.[13] In fact, 40% of U.S.-born persons would be unable to meet that threshold.[14] Imposing such a high bar would disproportionately burden Latino immigrants who account for approximately 68% of all noncitizens with income below 250% FPL.[15]

- **The proposed rule's shift to a cumbersome public charge adjudication process will delay—or at a minimum delay—family unity by burdening applicants with duplicative evidentiary requirements and increasing the cost of legal representation for otherwise routine applications.** The proposed rule creates a substantial new regulatory burden on all immigrant visa and adjustment of status applicants by requiring new forms of evidence. Confusingly, the proposed rule would also leave intact the requirement that immigrant visa and adjustment of status applicants submit an Affidavit of Support. In this way, the new process would more closely resemble the preparation of a defensive application for immigration relief such as asylum/withholding, waiver applications, or non-LPR cancellation where individuals would be required to submit ample justifications addressing or disavowing each public charge factor.

  In addition, the proposed rule could disproportionately impact the processing of immigrant visa applications. In recent years, DHS has taken the commendable step of reducing actual and perceived barriers to legalization for individuals in mixed immigration status families. One example of this is the promulgation of two regulations, first establishing, and next

expanding the use, of provisional waivers. The creation of the provisional waiver has significantly reduced the amount of times families are separated by streamlining the review conducted with U.S. Department of State consular officers. This proposed rule fails to provide clarity on the intersection of public charge with other product lines like the provision waiver, and as such could effectively eliminate the significant benefits to both applicant and USCIS of case adjudication streamlining by undercutting prospective applicants' willingness to use provisional wavier processing.

Applicants seeking to adjust their status from within the U.S. could also experience increased time and processing burdens. Delays associated with adjustment of status applications have increased significantly in the past two years, with processing times exceeding 10 months in many parts of the country, according the USCIS Ombudsman. [16] Moreover, USCIS has already promulgated significant policies placing new training and operation burdens on adjudicators of adjustment of status cases – June 28, 2018 *USCIS Policy Memorandum: Updated Guidance for Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens*, and the July 13, 2018 *USCIS Policy Memorandum: Issuance of Certain RFEs and NOIDs.* The proposed rule's new onerous adjudication process more closely resembles an application for a provisional waiver, asylum/withholding application, or other form of defensive relief requiring significant documentation would increase processing delays; as such, it likely will impose even greater demands on USCIS adjudicators which could compound processing delays.

- **Applicants and Service Providers would experience increased financial burdens.** Because the public charge consideration is incident to other immigration benefit applications (as opposed to a standalone benefit), we expect that over time the cost of legal fees for immigrant visa or adjustment of status applications would increase to account for greater attorney time to prepare those packages. Based on anecdotal reports, in some immigrant heavy jurisdictions like New York, Chicago, and Los Angeles it is not uncommon for the cost of private attorneys to exceed $8,000 for more complicated cases involving immigration waivers. Assuming a conservative increase of 5% – or an increase of $400 dollars to a cost of $8,000 – that is potentially a $40 million-dollar burden for every 100,000 adjustments of status or immigrant visa applications. For many low-income applicants, an increase in the costs of legal fees and applications can present a serious financial burden that can place a household's economic security in jeopardy.

  Similarly, the inclusion of a $10,000 public charge bond could increase the overall cost of legalization for applicants and their qualifying family members currently eligible under existing policy. The government has failed to provide evidence demonstrating that public charge bonds will achieve the Administration's stated objective of ensuring that immigrants remain self-sufficient. In fact, the use of bond in the proposed rule is more likely to exacerbate the supposed problem it seeks to resolve by stretching the financial resources of families.

Moreover, this increase can be especially onerous for community-based organization including those service providers that provide accredited low- or no-cost immigration legal services to the Latino community. Many of these organizations form part of the UnidosUS national affiliate network. The proposed rule would likely require our already taxed service providers to provide more time per immigration case, which in turn would limit the number of overall families they are able to serve across a wide range of case types, including citizenship applications.

- **The rule seems to reduce or potentially eliminate the use of the application fee waivers.** The proposed rule appears to authorize adjudicators to considers whether an applicant has sought or obtained a fee waiver in applying for an immigration benefit, but this inclusion seems misguided. First, outside a handful of enumerated situations (humanitarian programs) it is unclear under what circumstances an immigrant visa or adjustment of status applicant could apply for a fee waiver. Second, the fee waiver program is founded on its own policy rationale, which we submit is not the subject of this rule.

- **Significant reduction of legal immigration would cause substantial economic harm.** If promulgated, the proposed rule would dramatically impact long term legal immigration into the U.S., which could result in substantial costs to our national economy over time. In fact, immigrants are major economic contributors who contribute more resources than they take, with higher workforce participation rates than the native born and higher rates of entrepreneurship.[17,18] There are numerous studies that demonstrate the significant economic benefits to the U.S. economy once an individual is legalizes, which would be jeopardized if more individuals cannot overcome enhanced financial scrutiny. There is scant evidence that immigrants are a drain on public resources.[19] The proposed rule does not properly account for these macroeconomic costs, which include, among others, immigrant contributions to the nation's social safety net programs like social security and Medicare, which Latino immigrants contribute $46.2 billion and $11.4 billion to per year, respectively.[20]

Health Concerns

If finalized, the rule could undermine the health and wellbeing of legal immigrants and their families and could contribute to millions of people, including children and seniors, losing access to health care and healthy food, while increasing the number of individuals living in poverty. Since undocumented immigrants generally do not have access to federal public benefits, legal immigrants and their families would primarily suffer the consequences, forgoing benefits out of fear.[21] Latino children would bear the brunt of this change; nationwide, over 19 million children, including 9.7 million Latino children, live in a family with a noncitizen parent, and 89% of these children are citizens.[22,23] Currently, 5.8 million citizen children with at least one noncitizen parent have health coverage through Medicaid and CHIP, and 1.8 million households with at least one participating citizen child living with a noncitizen adult utilize SNAP.[24] If present or predicted future benefit use is considered in a public charge determination, it is likely that the U.S. citizen children of noncitizens will disenroll, or not enroll at all, from Medicaid/CHIP and SNAP benefits, even if their eligibility did not change.[25]

- **This proposed rule would reduce access to health coverage and increase instances of food insecurity and hunger among legal immigrants seeking to attain lawful permanent residency.** Under the proposed rule, the definition of public charge would expand to include receipt of means-tested, noncash health and nutrition benefits including nonemergency Medicaid, the Medicare Part D Low-Income Subsidy, and the Supplemental Nutrition Assistance Program (SNAP).[26] Expanding the definition of public charge to include use of these programs will dramatically increase the share of noncitizens applying for lawful permanent residency (LPR) status for whom benefit use could be considered in a public charge determination. [27]

  Tying receipt of these benefits to one's ability to attain LPR status or the ability to reunite with family in the future ensures that many individuals seeking LPR status will forego critical health benefits they remain eligible for.[28] As the proposed rule notes:

  > *The proposed rule would also result in a reduction in transfer payments from the federal government to individuals who may choose to disenroll from or forego enrollment in public benefits…due to concern about the consequences to that person receiving public benefits and being found to be likely to become a public charge…even if such individuals are otherwise eligible to receive benefits.*[29]

  If promulgated, legal immigrants and their families would remain eligible for these programs but would be forced to choose between their health coverage and access to healthy food for their family, and the ability to attain a green card or reunite with family in the future.[30]

- **The proposed rule would create a 'chilling effect' that would contribute to millions losing health coverage and access to healthy food, including U.S. citizen children.** The complexity of the proposed rule and the fear of immigration consequences will cause a substantial 'chilling effect' resulting in millions of individuals foregoing benefits they remain eligible for even if they themselves are not subject to the rule.[31] This includes immigrants who already have LPR status as well as the U.S. citizen children and other family members of noncitizens.[32]

  Nationwide, 22.2 million noncitizens and a total of 41.1 million individuals who are either noncitizens or have noncitizen family members could be impacted by this proposal either because they may disenroll from means-tested benefits or decide not to apply at all.[33] This includes 14 million individuals with income below 125% FPL who are either noncitizens themselves or have noncitizen family members.[34] Many immigrants and their families have already stopped seeking health care and nutrition services they are eligible for in response to rumors of this proposed rule.[35]

  This chilling effect likely will be so pervasive precisely because the programs targeted by the proposed rule help tens of millions of children, seniors, and their families live healthy and be financially secure. Today, 74 million Americans, including 18 million Latinos, count on

Medicaid and the Children's Health Insurance Program (CHIP) for access to health coverage, and 40 million Americans, including 10 million Latinos, utilize SNAP to access healthy food.[36,37,38] Low-income seniors, including Medicaid and Medicare dual eligibles, also utilize benefits targeted under this proposal.[39]

If finalized, this rule probably would cause an estimated two million children with a noncitizen parent to lose their health coverage despite remaining eligible, and up to 560,000 citizen children could fall into poverty if families cancel their SNAP benefits.[40,41]Projected loss of Medicaid and SNAP benefits because of the rule's chilling effect would result in an estimated total economic impact of $24 billion, accounting for the loss of health care and food supports and the ripple effects of lost spending on the overall economy. In this scenario, the economy could expect to lose approximately 164,000 jobs, with even greater losses in the event of an economic downturn.[42]

- **The proposed rule would likely disproportionately cause Latinos to lose access to SNAP and Medicaid benefits, exacerbating existing health inequities, while increasing instances of hunger and poverty.** The programs included in the expanded public charge definition, like SNAP and Medicaid, play a critical role in improving the health and wellbeing of the Latino community.[43] SNAP helps 10 million Latinos access nutritious food and is one of our nation's most effective anti-poverty programs. In 2017, SNAP nearly 1 million Latinos out of poverty, including 595,371 children.[44]

  Loss of SNAP benefits would cause more Latinos, including children, to experience poverty and suffer from hunger and malnutrition. In 2016, 18.5% of Latino-headed households reported being food insecure compared to 12.3% of all households. Hunger and food insecurity especially impact Latino children, as 22% of Latino children live in households struggling to avoid hunger, compared to 16.5% of all households with children.[45] Additionally, Medicaid is critical for Latino children and families. One-third of all Latinos, including over half (54%) of Latino children, have health coverage through Medicaid and CHIP.[46] If finalized, millions of Latino children would probably lose coverage and access to these medically necessary services developed specifically for low-income children, leading to worse health and behavioral outcomes later in life.[47]

  The most recent quantifiable data available to project the extent of this chilling effect is take-up of SNAP and Medicaid benefits following the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Following passage of these welfare reform laws, there was a swift withdrawal of benefits among populations whose eligibility did and did not change.[48] If disenrollment rates under the proposed rule are similar to what occurred after the 1996 law, up to 4.9 million people with Medicaid and CHIP would disenroll and many would remain uninsured.[49] Comparable disenrollment rates among SNAP recipients would cause one million people to lose food assistance and become food insecure.[50]

- **Adding the Children's Health Insurance Program (CHIP) to the programs considered in a Public Charge determination would harm millions of children, including Latinos.** The addition of noncash benefits including Medicaid, Medicare Part D and SNAP to the definition of what constitutes a public charge already represents a radical departure from the current standard and would harm millions of Latino children and families. In addition to our opposition to including programs already in the proposed rule, UnidosUS vehemently opposes adding CHIP to the list of benefits that can be considered in making a public charge determination.

  For decades, bipartisan efforts in Congress have established a purposeful extension of health and nutrition benefits to legal immigrant children regardless of when they entered the country.[51,52] Adding CHIP to the definition of Public Charge would clearly undermine congressional intent to ensure that these children have access to health coverage and adequate nutrition as evidenced by the Children Health Insurance Program Reauthorization Act of 2009 (CHIPRA), and The Farm Security and Rural Investment Act of 2002.[53] The addition of CHIP to the list of benefits included in such a determination would only increase this harm and would, for the first time, expand public charge to include a noncash benefit that is exclusively for children.

  Lack of access to health coverage and care is already a significant issue for Latinos, as Latinos at every age are more likely to be uninsured than their peers, with an uninsured rate (16%) that is significantly higher than the overall uninsured rate (8.8%), and more than twice that of Whites (6.3%).[54,55] CHIP stands on the shoulders of Medicaid to ensure that children in lower income families have access to the health coverage and care they need to grow up healthy. Approximately nine million children enroll in CHIP coverage at some point each year, and since implementation of the program in 1997, the child uninsured rate has declined by two-thirds (14.9% - 4.8%) and the Latino child uninsured rate has declined by nearly three-quarters (28.6% - 7.6%).[56,57] The inclusion of CHIP in the final rule could reverse these gains as children disenroll from the program, and could also lead to increased health costs over time with children deferring or reducing use of preventive and other health care services.[58]

- **If finalized, the proposed rule would have significant negative impacts on public health.** Decreased benefit use at rates seen in the past would have significant public health and economic ramifications.[59] Significant reductions in Medicaid and CHIP coverage would lead to a variety of negative public health effects including lower rates of health care utilization and poorer health among immigrants and their dependents.[60] Lower rates of coverage could lead to higher rates of infant mortality, and loss of preventive care services like well-child visits, immunizations, and cancer screenings.[61] This would place tremendous strain on health care providers such as federally qualified health centers and public hospitals, who would serve more patients who lack coverage and would face higher uncompensated care costs as a result.[62]

There are also significant benefits associated with access to SNAP benefits for both individuals and the overall economy.[63] Children in households participating in SNAP for six months are approximately one-third less likely to experience hunger than children in households recently approved for SNAP but not enrolled.[64] SNAP is a net benefit for the overall economy, as every SNAP dollar used by households expands the economy by about $1.79, and access to SNAP early in life is associated with better health and labor market outcomes well into adulthood.[65,66]

- **The proposed rule and associated efforts around immigration enforcement will likely impact educational outcomes, with disproportionate harm on Latino children.** Widespread disenrollment from public benefits will also have a negative effect on educational outcomes, as unhealthy kids experience additional hardships in school. Research continues to show that traumatized children, unhealthy children, hungry children, and children who are not in the classroom, cost more to educate and are less likely to graduate high school ready for college or career.[67] The American economy increasingly relies on well-educated Latino workers, given that one in four children in our K-12 schools are Latino.

  However, our communities cannot meet that demand if our children are unable to learn. Household instability creates stress and can threaten children's and parents' security and control over their lives. We have increasing anecdotal evidence showing that increased immigration enforcement, and even rumors of this proposed rule, has led to a decrease in attendance for many Latino students who are immigrants themselves, or who are members of mixed status families.[68] Students who are not in school cannot learn, they fall behind, and we must spend additional resources to catch them up. An increase in stress, for either a parent or a child, is associated in lower academic outcomes for these students, their classmates, and the educational system as a whole.[69,70]

<u>Housing-related concerns</u>

Safe and affordable housing serves as a critical foundation on which families can pursue economic and educational opportunities. Recognizing that a family's well-being is closely connected to housing, the government has invested in federal housing assistance programs to help families thrive. Yet, this proposed rule would now count enrollment in federal housing assistance programs as a negative factor in making a public charge determination, further threatening the well-being of immigrant households.

- **This proposed rule would keep affordable homes out of reach and increase instances of housing insecurity among legal immigrants and their families.** Under the proposed rule, the definition of public charge would expand to include receipt of means-tested, noncash public benefits including Section 8 Housing Choice Voucher, Section 8 Project-Based Rental Assistance, and Subsidized Public Housing. Tying receipt of these benefits to one's ability to attain LPR status or the ability to reunite with family in the future ensures that many individuals seeking LPR status will forego benefits for which they remain eligible. Federal rental assistance has helped millions of children and seniors and their families lead

financially secure lives. Today, five million households, including about 1.1 million Latino households, participate in federal rental assistance programs that help provide access to affordable housing, and allow hard working families to keep food on the table and afford necessities like trips to the doctor.[71]

Under this proposed rule, legal immigrants and their families would remain eligible for these programs but would be forced to choose between keeping a roof over their heads and the ability to attain a green card or reunite with family in the future. This difficult choice could push nearly 500,000 individuals, including U.S. citizen children into homelessness.[72]

- **Connecting a family's eligibility for federal rental assistance and rent subsidies to the Public Charge determination would undermine the goal of self-sufficiency and exacerbate child poverty and homelessness.** Having stable housing is critical for a family's good health, sustaining employment, and an individual's overall self-sufficiency. Housing that is not affordable puts a burden on families to meet the basic need for shelter, while limiting the amount of money available for food, childcare, healthcare and work-related transportation costs. Studies have shown that unstable housing situations can cause individuals to experience increased hospital visits, loss of employment, and mental health problems.[73] Low-income Latino renters are more likely than any other racial or ethnic group to have severe housing needs.[74] Rental assistance has played a critical role in helping very low-income Latino families keep a roof over their heads. In 2017, federal rental assistance lifted approximately 801,174 Latinos out of poverty, including approximately 283,303 Latino children[75]

  Latino families count on rent subsidies like Section 8 Housing Choice Vouchers to help them afford housing in the private market in neighborhoods that provide better access to jobs, schools for their children, and healthier food options. The Housing Choice Voucher program helps support children and families on their path to self-sufficiency and opens up educational and economic opportunities in the long-term, especially for individuals who received assistance as young children.[76] In 2017, 17% of households with a Section 8 Housing Choice Voucher were Latino.[77] Subsidized public housing also helps low-income families afford an apartment by keeping the cost of rent fixed. In 2017, nearly 21% of households living in subsidized public housing were Latino.[78]

Conclusion

UnidosUS strongly opposes the Department's plan to expand the definition of what constitutes a Public Charge. We are gravely concerned that these proposed plans threaten to produce undue harm to the Latino community, threatening the economic stability, health, and housing of millions of immigrants and their U.S. citizen family members. In addition, the proposed rule could have severe, adverse, and counterproductive effects on the economy and the public health. We urge the Department to abandon plans to issue this proposed rule and instead implement and enforce the current law. Should you have any questions regarding these comments, please contact Carlos Guevara, Senior Immigration Policy Advisor at cguevara@UnidosUS.org.

Sincerely,

Eric Rodriguez
Vice President, Policy and Advocacy
UnidosUS

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