



December 10, 2018

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

Re: Inadmissibility on Public Charge Grounds - Docket No. USCIS–2010–0012

To Whom It May Concern:

The District of Columbia Health Benefit Exchange Authority (HBX) appreciates your consideration of our comments on the above-cited Notice of Proposed Rulemaking (NPRM).

By way of background, HBX is a private-public partnership established by the District of Columbia (District) to develop and operate the District’s on-line health insurance marketplace, DC Health Link (DCHealthLink.com). We cover approximately 100,000 people -- District residents and people who work for District small businesses. DC Health Link fosters competition and transparency in the private health insurance market, enabling individuals and small businesses to compare health insurance prices and benefits and to purchase affordable, quality health insurance. Since we’ve opened for business, we have cut the uninsured rate by 50% and now more than 96% of District residents have health coverage.

We strongly oppose the proposed rule and request it be withdrawn in its entirety. As acknowledged in the preamble, the NPRM would have far-reaching negative impacts on public health and on U.S. citizens and Lawful Permanent Residents who are not subject to the public charge test.¹ These detrimental effects – as cited in your preamble -- include:

- 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, including among members of the U.S. citizen population who are not vaccinated;
- Increased 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.²

¹ U.S. Department of Homeland Security. Notice of Proposed Rulemaking. “Inadmissibility on Public Charge Grounds,” 83 Federal Register 51114, 51270 (Oct. 10, 2018).

² Id. at 51270 (Oct. 10, 2018).



The Chilling Effect on Health Coverage

The NPRM would reverse the District's gains in health coverage and hurt District residents. The District is ranked second among all states for the lowest uninsured rate in the nation. This is in large part due to the expansion of Medicaid and the affordability and availability of Affordable Care Act (ACA) coverage. For example, the District has the second lowest average individual market premiums in the country.³ All of these gains are put at risk by the chilling effect that the NPRM will have on individuals and families seeking and retaining health coverage.

The proposed regulation directly penalizes all immigrants who are eligible for Medicaid coverage, SNAP, Medicare Part D subsidies, and housing subsidies. While the NPRM acknowledges the well-documented "chilling effect" that this regulation could have on immigrants, the U.S. Department of Homeland Security analysis included in the NPRM accounts only for those immigrants who would seek to renew their lawfully-obtained visas, seek a change in status, or apply for lawful permanent resident status.⁴ In fact, the impact will be far broader.

Part of the "chilling effect" will be caused by the significant confusion resulting from this proposed rule. There are many permutations of immigration statuses in households and all must be included on the same application. Several immigration statuses are exempt from the public charge test. Also, some immigrants may be exempt based on another characteristic such as serving in the Armed Services⁵. All of this will lead to confusion and result in people not applying for health insurance coverage or dropping the coverage they already have.

The "chilling effect" concern is not theoretical but is based on similar outcomes with other programs. According to a Manatt Health analysis, a total of 41.1 million people (12.7% of the U.S. population) could be subject to the public charge test or otherwise impacted by the test because they are in a family unit with someone subject to the test.⁶ Based on experiences following passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), the "chilling effect" will extend to additional populations not directly covered by the regulation. Medicaid enrollment by refugees dropped by 33% following passage of that law, even though refugees were not impacted by the changes contained in it.⁷ Similarly, according to a study conducted by the U.S. Department of Agriculture, enrollment in SNAP between 1994 and 1997 fell by 54% for legal permanent residents and by 37% for U.S. citizen children who lived with an immigrant parent.⁸

³ Centers for Medicare & Medicaid Services. 2018 Marketplace Open Enrollment Period Public Use Files. https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/2018_Open_Enrollment.html

⁴ 83 Federal Register 51114 at 51266 (Oct. 10, 2018).

⁵ Proposed 8 C.F.R. § 212.21(b)(4).

⁶ Manatt Health. Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard. New York, NY; 2018. <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>.

⁷ Fix M, Passel J. Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform. Urban Institute; 1999. <https://www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform>.

⁸ Genser, J. "Who is Leaving the Food Stamp Program: An Analysis of Caseload Changes from 1994 to 1997." Washington, DC: U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis, Nutrition, and Evaluation; 1999. <https://fns-prod.azureedge.net/sites/default/files/cdr.pdf>.

People Will Drop Health Coverage, The Uninsured Rate Will Increase, and Premiums for Insured Residents will Increase

The proposed rule if finalized will hurt District residents. We are already seeing some residents not enrolling in health coverage during open enrollment because of the fear of the proposed public charge rule.

Being uninsured has severe economic and health consequences to an uninsured person and people with insurance. The proposed rule will lead to people dropping or foregoing health coverage and will hurt non-U.S. citizens and citizens, alike. For example according to a study prior to the ACA, the leading cause of personal bankruptcy was a medical condition.⁹ Also, research has found a consistent link between lack of insurance and premature death. According to the Institute of Medicine (IOM), lack of insurance increases the risk of dying by 25 percent.¹⁰ And in 2009 researchers estimated that approximately 45,000 uninsured people died preventable deaths.¹¹ And according to an IOM 2002 study, the uninsured problem cost the U.S. economy between \$65 billion and \$130 billion annually in lost productivity.¹² Also, insured families paid an extra \$1,017 annually in premiums to pay for some of the uncompensated care.¹³

Conclusion

We strongly oppose the proposed changes to the public charge rule and urge you to withdraw the proposed changes. The proposal will lead to people losing their medical coverage or not signing up for coverage. This could lead to financial ruin and declining health or death in some cases. Also it will lead to higher premiums for privately insured people and have negative consequences for the U.S. economy. The proposed rule fails the moral test and the economic test, and will hurt American citizens and immigrants waiting to become American citizens.

Sincerely,



Mila Kofman
Executive Director
DC Health Benefit Exchange Authority

⁹ "Medical Bankruptcy in the United States, 2007: Results of a National Study," D. Himmelstein, D. Thorne, E. Warren, S. Woolhandler, *American Journal of Medicine*. August 2009.

¹⁰ Institute of Medicine. *Care Without Coverage, Too Little, Too Late*. Washington, DC: The National Academies Press; 2002.

¹¹ "Health Insurance and Mortality in U.S. Adults" A. Wilper et. al., *American Journal of Medicine*. December 2009.

¹² Institute of Medicine. *Hidden Costs, Value Lost: Uninsurance in America*. Washington, DC: The National Academies Press; 2003.

¹³ FamiliesUSA. "Hidden Health Tax: Americans Pay a Premium". May 2009.

https://familiesusa.org/sites/default/files/product_documents/hidden-health-tax.pdf