



April 23, 2022

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

**Re: Public Charge Ground of Inadmissibility –Notice of Proposed Rulemaking, Docket No. USCIS–2021–0013**

To Whom It May Concern:

The District of Columbia Health Benefit Exchange Authority (HBX) appreciates your consideration of our comments in response to the Notice of Proposed Rulemaking (NPRM) with the goal of protecting immigrant access to crucial government services.

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 opened for business, we have cut the uninsured rate by 50% and now more than 96% of District residents have health coverage.

HBX commends USCIS for rescinding the 2019 final rule on Public Charge<sup>1</sup> and quickly reverting to the standards in the Immigration and Naturalization Service 1999 guidance. HBX strongly opposed the 2019 Final Rule and submitted comments explaining why the prior Administration was wrong on the policy and wrong on the law (prior comments attached: December 10, 2018 comments to DHS’s Notice of Proposed Rulemaking on Public Charge<sup>2</sup>, October 31, 2019 comments regarding the State Department’s emergency Information Collection<sup>3</sup> associated with the Presidential Proclamation<sup>4</sup> to require health coverage prior to entry, November 12, 2019 comments to the State Department’s Public Charge Interim Final

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<sup>1</sup> U.S. Immigration and Naturalization Service. Notice of Proposed Rulemaking. “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds”, 64 Fed. Reg. 28689 (Mar. 26, 1999).

<sup>2</sup> U.S. Department of Homeland Security. Notice of Proposed Rulemaking. “Inadmissibility on Public Charge Grounds”, 83 Fed. Reg. 51114 (Oct. 10, 2018).

<sup>3</sup> U.S. Department of State. Notice of Request for Emergency Review. “Notice of Information Collection Under OMB Emergency Review: Immigrant Health Insurance Coverage”, 84 Federal Register 58199 (Oct. 30, 2019).

<sup>4</sup> Presidential Proclamation on the Suspension of Entry of Immigrants Who Will Financially Burden the United States Healthcare System, No. 9945, Oct. 4, 2019. 84 Fed. Reg. 53991 (Oct. 9, 2019).



Rule<sup>5</sup>, and December 20, 2019 comments regarding the State Department’s Public Charge Questionnaire (Form DS-5540) Information Collection<sup>6</sup>).

In our prior comments we discussed the “chilling effect” of the 2019 regulations on immigrant communities applying for benefits, including household members that are not subject to the Public Charge test, as well as the impact on overall public health and health coverage rates. At its core, the 2019 Rule ignored the economic reality of the immigrant experience in the U.S. and immigrants’ ability to integrate rapidly into society, improve their circumstances, and contribute to the nation.<sup>7</sup> Immigrants provide a labor supply which allows the U.S. to address the negative effects of a stagnating population, such as an aging work force and reduced consumption by older residents.<sup>8</sup> The 2019 Rule was also based on a false assumption that immigrants overuse public benefits. In-fact, analyses show that low-income immigrants are less likely to use public benefits like Medicaid and the Supplemental Nutrition Assistance Program (SNAP) when compared to similar low-income U.S.-born people.<sup>9</sup>

HBX has signed-on to the comment letter in response to this NPRM submitted by Protecting Immigrant Families (PIF) on behalf of a coalition of organizations anchored by the National Immigration Law Center (NILC) and the Center for Law and Social Policy (CLASP). HBX agrees with the legal and public policy points articulated in the comment letter. HBX supports finalization of the NPRM along with the recommended improvements in the PIF comment.

We appreciate the Administration’s willingness to ask stakeholders to find solutions that implement the Public Charge test in a fair and more easily understood manner. We look forward to working with you to support immigrant communities and their access to life saving medical services.

Sincerely,

Mila Kofman  
Executive Director  
DC Health Benefit Exchange Authority

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<sup>5</sup> U.S. Department of State. Interim Final Rule. “Inadmissibility on Public Charge Grounds”, 84 Federal Register 54996 (Oct. 11, 2019).

<sup>6</sup> U.S. Department of State. Notice of Request for Public Comment. “60-Day Notice of Proposed Information Collection: Public Charge Questionnaire”, 84 Federal Register 57142 (Oct. 24, 2019).

<sup>7</sup> Ku, Leighton and Pillai, Drishti, The Economic Mobility of Immigrants: Public Charge Rules Could Foreclose Future Opportunities (November 15, 2018). Available at SSRN: <https://ssrn.com/abstract=3285546>.

<sup>8</sup> *Id.*

<sup>9</sup> Nowrasteh A, Orr R. Immigration and the Welfare State: Immigrant and Native Use Rates and Benefit Levels for Means-Tested Welfare and Entitlement Programs. Cato Institute Immigration Policy and Research Brief No. 6. May 10, 2018. <https://www.cato.org/publications/immigration-research-policy-brief/immigration-welfare-stateimmigrantnative-use-rates>; Ku L, Bruen B. Poor Immigrants Use Public Benefits at a Lower Rate Than Poor Native-Born Citizens. Economic Development Bulletin No. 17, Washington, DC: Cato Institute. March 4, 2013 <http://www.cato.org/sites/cato.org/files/pubs/pdf/edb17.pdf>.