

December 10, 2018

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 Sir/Madam:

We are writing on behalf of the Food Research & Action Center (FRAC) to express strong opposition to the Department of Homeland Security's proposed Rule "Inadmissibility on Public Charge Grounds" that was published in the Federal Register on October 10, 2018. FRAC leads the fight for effective public policies that will end hunger in America, and informs, mobilizes, and empowers a network of national, state, and local organizations and policymakers to ensure that everyone has access to affordable healthy food every day. Due to its negative impact on the food security, health, and well-being of families, and its costs to education, health care, public health, and the economy, the Rule should be withdrawn.

The deeply flawed Rule unravels decades of sound and settled public policy that draws a clear and responsible line between those public benefits which may be used without causing public charge consequences for immigration purposes and those that may not. Across the lifespan, millions of U.S. citizens and eligible noncitizens benefit from public benefits programs when a life circumstance — a job loss, an economic downturn, a divorce, an injury, a health issue — occurs that requires assistance from a public program. The Rule forces families with immigrant members to make impossible choices between accessing vital programs that safeguard their health care, nutrition, housing, and economic security *and* keeping their family together in the U.S.

FRAC opposes the proposed Rule and seeks it be withdrawn for the following reasons:

The proposed Rule represents a massive change in current policy — yet it is put forward with no rationale, and unnecessarily targets millions of immigrant families with lower income workers, children, seniors, non-English speakers, or low incomes. Approximately 25.9 million people in immigrant households potentially would be affected by the proposed public charge Rule, accounting for an estimated 8 percent of the U.S. population. This number represents individuals and family members with at least one noncitizen in the household with incomes under 250 percent of the federal poverty level. Of these 25.9 million people, approximately 9.2 million are children, representing approximately 13 percent of the nation's child population.¹

¹ 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 2012-2016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center

These changes — counting wealth and income as the primary indicators of a person’s future contribution — amount to a sea of change in American policy towards immigration. Of concern, the proposed Rule:

- *expansively — and unworkably — redefines what being a “public charge” means, and adds new programs to the determination.* Whereas current guidance focuses on whether an immigrant is likely to become *primarily dependent* on benefits for subsistence, the proposed Rule extends a public charge inadmissibility determination to include an immigrant who is likely to use more than the minimal amount of an expanded list of critical programs, constituting a much lower threshold for deeming someone to be a public charge. Programs that may be considered in a public charge determination would include not only cash programs (SSI and TANF) and publicly funded long-term institutional care, *but also* the Supplemental Nutrition Assistance Program (SNAP, formerly food stamps), Medicaid, Medicare Part D Low Income Subsidy, and public housing assistance. Access to these programs creates the underpinnings of sound public policy that protects families in times of need and launches them toward self-sufficiency.
- *radically alters the totality of circumstances test in ways that explicitly favor immigrants with wealth and resources, and disfavor children, seniors, and non-English speakers.* The totality of circumstances test guides the decision as to whether an immigrant would be deemed a public charge. The proposed Rule assigns a *negative* weight to many factors in this test that have never been relevant in a public charge determination, including being a child, a senior, or someone who cannot speak English. The Rule also counts as negative factors if the applicant has bad credit, assets, and resources below 125 percent of the federal poverty guideline, or has received immigration fee waivers. The Rule counts current receipt of one or more public benefits or receipt of public benefits within 36 months prior to filing an immigration application as a *heavily weighted negative factor*. The only heavily weighed positive factor is whether an immigrant has financial assets, resources, support, or annual income of at least 250 percent of the federal poverty guidelines, e.g., \$62,750 for a family of four. The Rule essentially counts the same factor — a person’s low income — in multiple ways (e.g., bad credit, use of a implicated public benefits program, receipt of an immigration fee waiver) either as a negative or heavily weighed negative factor, meaning that potential results of having a low income could count repeatedly against an applicant. The Rule makes it even more problematic to overcome a lack of income in the totality of circumstances test by including high income — income of at least 250 percent of the federal poverty guidelines — as the only heavily weighed positive factor that could be used to counter these

(MCDC) MABLE PUMA-County Crosswalk. Custom Tabulation by Manatt health, 9/30/2018. Found online at <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>.

negative factors. This signals a clear intent to only permit entry or improved immigrant status to those families with wealth.

- *makes it markedly harder for low-income immigrants to enter or stay in the country by devaluing the affidavit of support.* The proposed Rule specifies that an affidavit of support from the applicant’s sponsor (often a family member) will count as a positive factor if the assets and resources of the sponsor are equal to or greater than 125 percent of the federal poverty guidelines, and if the sponsor would provide financial support to the applicant. The Rule abandons the current practice where a valid affidavit of support would be enough on its own to overcome public charge concerns in the totality of circumstances test.

The proposed Rule fails to provide clear and workable guidance for making a public charge determination. The hundreds of pages that address the new elements, weights, and programs implicated in a public charge analysis abound with contradictions and unyielding, incomprehensible, and vague guidance. The Rule gives U.S. Citizenship and Immigration Services employees and contractors wide discretion to decide whether an alien is “likely at any time in the future” to become a public charge based only on the “totality of circumstances.”² While certain factors are weighted more heavily in the determination, without providing additional guidance the Rule ultimately leaves the decision to the discretion of the immigration officer. The absence of clear guidance makes it challenging — if not impossible — for state agencies and other stakeholders, such as churches, non-profits, hospitals, health centers, advocates, charitable providers, to counsel and advise immigrants on the consequences of using and applying for public benefits.

The proposed Rule would disproportionately impact people of color. While people of color account for approximately 36 percent of the total U.S. population, of the 25.9 million people who would be potentially impacted by the chilling effect of the proposed Rule, approximately 90 percent are people from communities of color (23.2 million). Among people of color potentially chilled by the Rule, an estimated 70 percent are Latinx (18.3 million), 12 percent are Asian American and Pacific Islander (3.2 million), and 7 percent are Black people (1.8 million). Among people of color in the U.S., approximately 33 percent of Latinos, 17 percent of Asian American and Pacific Islander, and 4 percent of Black people would be potentially chilled by the proposed Rule. It is worth noting that this impact does not factor in people applying to come to the U.S.

The proposed Rule would conflict with the statutory provisions and their rationale authorizing SNAP — and other public benefits — for immigrant households. Congress has already laid out specific standards and requirements within federal public benefits programs to decide which noncitizens or citizens living with noncitizens can access a range of public benefit programs, including the federal nutrition programs. In response to concerns that some consular officials and employees

² 83 Fed. Reg. 51,178.

of the then-Immigration and Naturalization Service (INS) were inappropriately scrutinizing the use of health care and nutrition programs, and the strong evidence of chilling effects on program participation from the 1996 Personal Responsibility and Work Opportunity Reconciliation Act that overhauled immigrant eligibility for programs, INS issued an administrative guidance on public charge in 1999. This guidance, which remains in effect today, clarifies that the public charge test applies only to those “primarily dependent on the government for subsistence,” demonstrated by receipt of public cash assistance for “income maintenance,” or institutionalization for long-term care at government expense. The guidance specifically lists non-cash programs, such as Medicare, Medicaid, Food Stamps (now known as SNAP), and housing programs as NOT to be considered for purposes of public charge.

The 1999 guidance is consistent with congressional intent and case law, has been relied upon by immigrant families for decades, and should continue to be used in interpreting and applying the public charge law. Contrary to the rationale put forward in the proposed Rule, in 1996, Congress made changes to program participation eligibility, not to the public charge determination. Since that time, Congress has made explicit choices to expand eligibility (or permit states to do so) under these programs.

Since the 1996 Welfare Reform Act and the 1999 Immigration and Naturalization Service (INS) administrative guidance, Congress has passed several laws that explicitly defined new eligibility for means-tested programs for immigrant populations. For instance, pursuant to Section 4401 of The Farm Security and Rural Investment Act of 2002, Congress restored access to what was then called Food Stamps (now SNAP) to qualified immigrant children, immigrants receiving disability benefits, and any qualified immigrants living in the U.S. for more than five years. When Congress has intended to specifically exclude immigrants from an enacted public benefits program, it has made that decision clearly known. These policies would be undercut and contradicted if the public charge doctrine were expanded to SNAP and other federal programs in ways that deter people who are authorized by Congress to receive benefits.

For almost two decades, U.S. immigration officials have explicitly reassured, and immigrant families have relied on that reassurance, that participation in programs, like SNAP, would not affect their ability to become lawful permanent residents. The proposed Rule would reverse longstanding existing law, policy, and practice in interpreting the public charge law, where the receipt of non-cash benefits has never been the determining factor in deciding whether an individual is likely to become a public charge.

The proposed Rule would spur immigrants who are legally authorized to participate in SNAP and other programs, including Medicaid, Medicare Part D Low Income Subsidy, and housing assistance, to forgo assistance or disenroll, jeopardizing their food security, health, well-being, and economic security. As the proposed Rule itself acknowledges, public benefits “play a significant

role” in the lives of recipients.³ These programs provide critical support to assist individuals and families to work, attend school, and maintain and improve their health. When individuals and families access these vital programs, the entire community and country benefits – when they do not, food security, health, education, and economic security suffer.

Pursuant to the Department of Homeland Security’s (DHS) own admission on page 51,270 of the proposed Rule: “Disenrollment or forgoing enrollment in a public benefits program by aliens otherwise eligible for these programs 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, including among members of the U.S. citizen population who are not vaccinated;
- 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.”

In the proposed Rule, DHS estimates the number of individuals who are likely to disenroll or forgo enrollment in public benefit programs, including SNAP, at 2.5 percent of the number of recipients who are members of households that include foreign-born noncitizens. Even though this estimate is a severe underestimate based on a deeply flawed analysis, under this conservative scenario, nearly 130,000 people – many of them children – would lose access to SNAP.

The Department of Homeland Security’s (DHS) Estimated Impact of the Proposed Public Charge Rule on SNAP	
Estimated number of SNAP recipients who are members of households that include foreign-born noncitizens	5,182,508
Estimated population likely to disenroll from or forgo enrollment in SNAP, based on DHS’s 2.5 percent rate of disenrollment or forgone enrollment*	129,563
Estimated reduction in SNAP-transfer payments, based on a 2.5 percent rate of disenrollment or forgone enrollment	\$197,919,143
<i>* DHS estimated the number of individuals who are likely to disenroll or forgo enrollment in public benefit programs at 2.5 percent. This was based on the average</i>	

³ 83 Fed. Reg. 51,163.

number of immigrants who adjusted their status annually from 2012–2016 in the U.S. when compared to the number of foreign-born noncitizens among the national population.

DHS’s 2.5 percent estimate was made, as noted in the Rule, “under the assumption that the population likely to disenroll from or forego enrollment in public benefits programs would be individuals intending to apply for adjustment of status or individuals who have adjusted status within the past five years.”⁴ The analysis has many flaws, woefully underestimating the impact of the proposed Rule on immigrant access to SNAP and other benefits. Perhaps most telling is the Rule itself highlights some of the flaws of the assumption underlying the 2.5 percent estimate on pages 51,260–51,270. For example, DHS’s estimate

- excludes immigrants who may not be admitted in the future because they would be deemed likely to become a public charge;
- assumes immigrants disenroll or forego enrollment in the same year in which they seek to adjust their status, even though the proposed Rule counts as a heavily weighted negative factor whether immigrants participated in public benefits in the last three years. Immigrants may disenroll several years before they need to adjust their status to increase their chances of success.

Most notably, DHS’s analysis fails to consider the broader impacts the proposed Rule would have on immigrant families both among those for whom the public charge determination would apply as well as those for whom public charge would not be an issue, but would be impacted by a chilling effect on program participation.

DHS acknowledges in the Rule that “[r]esearch shows that when eligibility rules change for public benefits programs there is evidence of a “chilling effect” that discourages immigrants from using public benefits programs for which they are still eligible.” The Rule cites a U.S. Department of Agriculture (USDA) study that found that under the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) that restricted access to benefits for immigrants, the use of SNAP benefits fell by 54 percent among legal immigrants.⁵ The participation decline cited in the USDA study was calculated using participation data for a period of time prior to the new eligibility rules going into effect for immigrants who were already participating in SNAP. This means that included within the staggering 54 percent decrease in participation among legal immigrants were immigrants who were still lawfully eligible to receive benefits. A 1999 study from Urban Institute found that despite refugees being exempt from the eligibility restrictions enacted by PRWORA, refugee use of public benefits declined by 33 percent.⁶

⁴ 83 Fed. Reg. 51,266

⁵ 83 Fed. Reg. 51,114, 51,266.

⁶ Michael E. Fix, Jeffrey S. Passel (1999) Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform 1994-97 <https://www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform>

The study concludes that “*Because comparatively few legal immigrants were ineligible for public benefits as of December 1997, it appears that the steeper declines in noncitizens' than citizens' use of welfare, food stamps, and Medicaid owe more to the "chilling effect" of welfare reform and other policy changes than they do to actual eligibility changes.*”⁷

Recent research has shown the negative spillover effects immigration enforcement programs can have on eligible immigrants and U.S. citizens. For example, a 2018 study found “significant declines in SNAP ... enrollment, particularly among mixed-citizenship status households”⁸ were spurred by fear that was generated by immigration enforcement programs.

One recent study estimates the Rule’s chilling effect on SNAP participation when looking just at U.S. citizen children to be up to 3 million.⁹ The chilling effect when looking at all eligible participants would include millions more.

The proposed Rule — and previous leaks of the Rule — have already contributed to an environment of fear and confusion that has spurred a reduced use of public benefits programs among eligible immigrants. As just one example, more than two-thirds of California health care providers that participated in a 2018 survey reported an increase in parents’ concerns about enrolling their children in CalFresh (California’s SNAP program) and other programs. This chilling effect would increase hunger in a population already disproportionately food insecure.

The expanded list of programs implicated in the Rule also would have a spillover effect on participation in vital programs not implicated in the Rule, including the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), rolling back progress in addressing hunger and poverty in this country. While public benefit programs, like WIC, are not included in the proposed public charge Rule, the fear, confusion, and caution surrounding the Rule would have a spillover impact, resulting in immigrant families forgoing vital nutrition assistance. A recent study found that immigrant families — including those who are lawfully present — are experiencing resounding levels of fear and uncertainty across all background and locations.¹⁰

Families would choose not to participate or have their children participate due to fear — both real and perceived — that seeking nutrition benefits could result in a loved one

⁷ Michael E. Fix, Jeffrey S. Passel (1999) Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform 1994-97 <https://www.urban.org/research/publication/trends-noncitizens-and-citizens-use-public-benefits-following-welfare-reform>

⁸ <https://www.nber.org/papers/w24731.pdf>

⁹ Jennifer Laird, Isaac Santelli, Jane Waldfogel, Christopher Wimer, *Forgoing Food Assistance out of Fear: Simulating the Child Poverty Impact of a Making SNAP a Legal Liability for Immigrants* <https://osf.io/preprints/socarxiv/6sgpk/>

¹⁰ Samantha Artiga, “Living as an Immigrant Family in America: How Fear and Toxic Stress are Affecting Daily Life, Well-Being, & Health.”

being denied a change in immigration status or entry into the U.S. Even before the Rule was published in the Federal Register, eligible immigrants and U.S. citizen children did not apply for or dis-enrolled from programs, like WIC, thereby forgoing vital nutrition based on future fears and uncertainty as to the state of the law. For example, 67 percent of California health care providers that participated in a 2018 survey noted an increase in parents' concerns about enrolling their children in WIC.¹¹

A growing body of research extols the virtues of federal nutrition programs as crucial sources of support for nutrition, and just as importantly, health, learning, and economic security. For instance, WIC participation is associated with better dietary intake and overall dietary quality, including increased iron density of the diet, increased consumption of fruits and vegetables, greater variety of foods consumed, and reduced added sugar intake.^{12,13} In 2017, according to the Census Bureau's Supplemental Poverty Measure, WIC lifted 279,000 people out of poverty.

By chilling access to SNAP, the proposed Rule would strip eligible immigrant families and our nation as a whole of the many important benefits of programs essential to their health, nutrition, and well-being.

This loss of access to SNAP and other key nutrition programs would roll back progress in addressing hunger and poverty in this country. A growing body of research extols the virtues of SNAP as a crucial source of support for nutrition, and, just as importantly, health, learning, and economic security not just for the families participating in the program, but for the nation. SNAP:

- **reduces food insecurity:** Participation in federal nutrition programs, like SNAP, is a critical intervention against food insecurity. Children in households that participated in SNAP for six months were approximately one-third less likely to be food insecure than children in households recently approved for SNAP but not yet receiving it.¹⁴
- **decreases poverty:** Nationally, 3.4 million people were lifted above the poverty line in 2017 under the alternative poverty computation that counts SNAP benefits as income, based on Census Bureau data on poverty and income in the U.S.¹⁵

¹¹ The Children's Partnership, California Children in Immigrant Families: The Health Provider Perspective," <https://www.childrenspartnership.org/wp-content/uploads/2018/03/Provider-Survey-Infographic-.pdf>

¹² Colman, S., Nichols-Barrer, I. P., Redline, J. E., Devaney, B. L., Ansell, S. V., & Joyce, T. (2012). Effects of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): A Review of Recent Research. Alexandria, VA: U.S. Department of Agriculture, Food and Nutrition Service, Office of Research and Analysis.

¹³ Gu, X., & Tucker, K. L. (2017). Dietary quality of the US child and adolescent population: trends from 1999 to 2012 and associations with the use of federal nutrition assistance program. *American Journal of Clinical Nutrition*, 105(1), 194–202.

¹⁴ Mabli, J., & Worthington, J. (2014). Supplemental Nutrition Assistance Program participation and child food security. *Pediatrics*, 133(4), 1–10.

¹⁵ Fox, L. (2017). *The Supplemental Poverty Measure: 2016*. Current Population Reports, P60–261(RV). U.S. Census Bureau.

- **improves health outcomes:** A raft of studies show that SNAP improves food security, dietary intake, and health, especially among children, and with lasting effects.¹⁶
- **supports academic outcomes and worker productivity:** SNAP helps children stay focused and fueled for learning and helps adults gain the nutrition needed for performing at work. Access to SNAP in childhood increased the high school graduation rate of participants by 18 percentage points. Looking at a broader range of economic and education outcomes, childhood SNAP access improved an index of adult economic outcomes among women—including higher earnings and educational attainment, and a reduced likelihood of being themselves reliant on the safety net during adulthood.¹⁷
- **supports the economy:** Every \$1 spent on SNAP benefits generates \$1.79 in economic activity,¹⁸ helping create markets for farmers and food retail jobs. Because SNAP benefits are needed by families, they are spent quickly — 97 percent of benefits are redeemed by the end of the month of issuance. Less participation in SNAP means less economic activity.

The following attached documents demonstrate the harms of poverty and food insecurity, and the benefits of SNAP:

- *Hunger and Health — The Impact of Poverty, Food Insecurity, and Poor Nutrition on Health and Well-Being* (<http://frac.org/wp-content/uploads/hunger-health-impact-poverty-food-insecurity-health-well-being.pdf>);
- *Hunger and Health — The Role of the Supplemental Nutrition Assistance Program in Improving Health and Well-Being* (<http://frac.org/wp-content/uploads/hunger-health-role-snap-improving-health-well-being.pdf>).

The harms of the proposed Rule would amount to a cost shift to states and localities. States and localities should not have to bear the costs of federal withdrawal of assistance to people who depend on safety net and public benefit programs.

When families lose access to all the benefits of programs, like SNAP, WIC, and other child nutrition programs, states, counties, and localities would suffer economic burdens emanating from this federal action. The proposed public charge Rule would add costs to states by

¹⁶ Hartline-Grafton, H. (2013). *SNAP and Public Health: The Role of the Supplemental Nutrition Assistance Program in Improving the Health and Well-Being of Americans*. Food Research & Action Center.

¹⁷ White House Council of Economic Advisers. (2015). *Long-Term Benefits of the Supplemental Nutrition Assistance Program*. Washington, DC: Executive Office of the President of the United States.

¹⁸ Food Research & Action Center, Facts: SNAP Strengths (2017), <http://frac.org/wp-content/uploads/frac-facts-snap-strengths.pdf>.

- *forcing states to use state and local funds to fill gaps caused by a loss of federal funds.* When families disenroll from SNAP and other safety net programs out of fear and confusion, their need for supports to help meet basic needs does not disappear. Instead, costs associated with assisting families to meet their basic needs previously paid for with federal funds would be shifted to state and local entities. This would create an unsustainable cost burden, and pull state and local funding away from other state programs. In the wake of eliminating SNAP eligibility for many legal immigrants after the 1996 PRWORA, several states invested state dollars to meet part of the resulting need for food assistance. Those stop-gap measures proved to be neither comprehensive nor sustainable in the long run. Under the proposed Rule, state and local governments would again face costs that would be associated with the loss of federal funds for public benefits, including harmful effects to health, food security, economic security, education and well-being of families resulting from the loss of public benefits.
- *necessitating costly and time-consuming updates and revisions to the state agency internal policies and procedures.* State agencies have invested countless hours in drafting policies to advise beneficiaries about their eligibility to receive benefits and the repercussions of doing so. The Rule's sweeping changes would upend these policies and procedures. The Rule itself unrealistically estimates that it would take approximately eight to 10 hours per person to read and familiarize oneself with the Rule.¹⁹ This alone is precious time that state employees need to fulfill their normal responsibilities; however, it fails to consider the hours needed to formulate recommendations, policies, and procedures related to the new Rule. This task is made even more challenging by the complexity of the Rule.
- *driving confusion and costs — including those associated with churn — (enrolling, disenrolling, and re-enrolling in public service programs) among federal, state, and local agencies trying to implement the Rule.* The long-standing public charge Rule provides clear notice to government agencies and officials as to the handful of programs where participation could trigger public charge concerns. The new Rule, however, is a recipe for confusion on multiple fronts. As a result, staff at all levels of government would likely be swamped by queries — both internal and external — as to what they should be telling families who access their programs or seek their advice as to whether they can access other programs without fear of immigration consequences. No training is available to prepare officials to provide clear and consistent guidance to families.

Additionally, many immigrant families eligible for SNAP would terminate their participation out of fear. Some of these families may return to apply if they come to understand that they are not subject to a public charge determination; for example, if they have refugee status. Others may reapply when food insecurity and hunger become more pronounced. This on-again-off-again approach to

¹⁹ 83 Fed. Reg. 51,118.

benefit enrollment, i.e., churn, not only yields negative results for families, it also results in duplicative work for state and local agencies. Churn is expensive for states. In one study of SNAP-related churn, the costs averaged \$80 for each instance of churn that requires a new application.²⁰

The Rule also would generate confusion among immigrant families, schools, social service providers, charitable networks, and advocates as to whether families could receive benefits without putting their or a loved one's immigration status at risk, and place additional strains on provider networks. Immigrants would struggle with how to make sense of this complex Rule and how it could jeopardize the immigration status of oneself or a family member. Likewise, service providers — including schools, medical providers, safety-net hospitals, faith-based organizations, and charitable organizations — that work with immigrant families would be at a loss as to how to interpret the proposed Rule and advise immigrant families.

Compounding the Rule's harm, many families may forgo assistance from programs that they can participate in without fear of immigration consequences because of the climate of fear or faulty advice given out of an abundance of caution.

The charitable network would incur costs in responding to the increased need, even as it struggles to meet existing need. Across the country, these networks — food banks, pantries, religious congregations, and other emergency food providers — are already overwhelmed, unable to serve all the people who require assistance. These networks could not possibly absorb the needs that would result from the harms that this Rule would introduce.

The Rule would create upstream and downstream harms to state and local economies, large and small businesses, and individuals. In the proposed Rule, the Department of Homeland Security notes how the Rule “could have downstream and upstream impacts on state and local economies, large and small businesses, and individuals” including “retailers participating in SNAP, [and] agricultural producers who grow foods that are eligible for purchase using SNAP benefits” (page 51,118 of the Rule).

SNAP benefits are quickly spent by recipients in their local community, which benefits not only the participants themselves, but also the retail, wholesale and transportation systems that deliver the food purchased. Every \$1 spent on SNAP benefits generates \$1.79 in economic activity.²¹ Even at the conservative disenrollment estimate of 2.5 percent, the Public Charge Rule would withdraw nearly \$200 million in federal

²⁰ Mills, Gregory, Tracy Vericker, Heather Koball, Kye Lippold, Laura Wheaton, Sam Elkin, “Understanding the Rates, Causes, and Costs of Churning in the Supplemental Nutrition Assistance Program (SNAP) - Final Report,” Prepared by Urban Institute for the US Department of Agriculture, Food and Nutrition Service, November 2014, <https://fns-prod.azureedge.net/sites/default/files/ops/SNAPChurning.pdf>

²¹ Food Research & Action Center, Facts: SNAP Strengths (2017), <http://frac.org/wp-content/uploads/frac-facts-snap-strengths.pdf>.

funding,²² amounting to approximately \$358 million in lost economic activity when taking the economic multiplier into account.

At FR 51174, the Department asks about public charge determinations for noncitizen children under age 18 who receive one or more public benefit programs. The receipt of benefits as a child should not be taken into account in a public charge determination as it provides little information on their future likelihood of receiving benefits. A decision to enroll a child in SNAP, Medicaid, or other public benefits is a decision made by a parent, not by a child.

Receipt of benefits, like SNAP and Medicaid, help children grow, learn, and complete their education and training in the U.S. The value of access to public benefits in childhood has been documented repeatedly. Safety net programs, such as SNAP and Medicaid, have short and long-term health benefits and are crucial levers to reducing poverty.

Investing in children is the most important investment in this country's future. It is cruel and counterproductive to adopt policies that would chill participation by children in public programs, like SNAP, that are essential to a child's nutrition, health, learning, development, and well-being. As such, a child should be held harmless from a decision that a parent makes for that child.

At FR 51174, the Department specifically requests comment on whether the Children's Health Insurance Program (CHIP) should be included in a public charge determination. CHIP should not be included in a public charge determination. CHIP is a program for working families who earn too much to be eligible for Medicaid without a share of cost. Making the receipt of CHIP a negative factor in the public charge assessment, or including it in the "public charge" definition, would exacerbate the problems with this Rule by extending its reach further to exclude moderate-income working families — and applicants likely to earn a moderate income at some point in the future.

Including CHIP in a public charge determination would likely lead to many eligible children foregoing health care benefits, both because of the direct inclusion in the public charge determination as well as the chilling effect detailed elsewhere in these comments. Nearly 9 million children across the U.S. depend on CHIP for their health care. Due to the chilling effect of the Rule, many eligible citizen children likely would forego CHIP — and health care services altogether — if their parents thought they would be subject to a public charge determination. This lack of health care access would put more children at risk for food insecurity and its attendant harms to health, nutrition, and well-being.

In conclusion, the combination of decreased participation in SNAP, Medicaid, Housing Assistance, and Medicare Part D Low Income Subsidy,

²² 83 Fed. Reg. 51,268.

and the spillover effect on other nutrition programs resulting from the Rule would lead to a hungrier, sicker, and poorer nation. The impact of individuals and families foregoing needed support from the programs specifically targeted in the Rule and other federal nutrition programs would be higher rates of food insecurity and hunger.

Food insecurity is associated with some of the most common and costly health problems among adults, including diabetes, heart disease, obesity, hypertension, chronic kidney disease, and depression. The consequences of food insecurity are especially detrimental to the health, development, and well-being of children.²³ Research shows a link between food insecurity and poor educational performance and academic outcomes^{24,25,26,27} for children — all of which have developmental, health, and economic consequences in both the short and long terms.

For these reasons, the Department should withdraw its current proposed public charge Rule, and dedicate its efforts to advancing policies that strengthen — rather than undermine — the ability of immigrants to support themselves and their families in the future.

Thank you for the opportunity to submit comments on the proposed Rule. Please do not hesitate to contact us to provide further information.

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²³ Food Research & Action Center, *The Impact of Poverty, Food Insecurity, and Poor Nutrition on Health and Well-Being* (Dec. 2017), available at: <http://www.frac.org/wp-content/uploads/hunger-health-impact-poverty-food-insecurity-health-well-being.pdf>

²⁴ Jyoti, D. F., Frongillo, E. A., & Jones, S. J. (2005). Food insecurity affects school children's academic performance, weight gain, and social skills. *Journal of Nutrition*, 135, 2831-2839.

²⁵ Shanafelt, A., Hearst, M. O., Wang, Q., & Nanney, M. S. (2016). Food insecurity and rural adolescent personal health, home, and academic environments. *Journal of School Health*, 86(6), 472-480.

²⁶ Nelson, B. B., Dudovitz, R. N., Coker, T. R., Barnert, E. S., Biely, C., Li, N., Szilagyi, P. G., Larson, K., Halfon, N., Zimmerman, F. J., & Chung, P. J. (2016). Predictors of poor school readiness in children without developmental delay at age 2. *Pediatrics*, 138(2), e20154477.

²⁷ Howard, L. L. (2011). Does food insecurity at home affect non-cognitive performance at school? A longitudinal analysis of elementary student classroom behavior. *Economics of Education Review*, 30, 157-176.