



December 10, 2018

Samantha Deshommes  
Chief  
Regulatory Coordination Division  
Office of Policy and Strategy, 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

Dear Chief Deshommes:

Child Trends is a nonpartisan research organization focused exclusively on improving the lives and prospects of our nation's children, youth, and their families. For nearly 40 years, decision makers have relied on our rigorous research, independent analyses, and clear communications to improve public policies and interventions that serve children and families. The National Research Center on Hispanic Children & Families ("Hispanic Center")—led by Child Trends along with our research and university partners—is a research hub intended to improve the lives of low-income Hispanic children and their families. The following statement does not necessarily represent the views of our funders or partner organizations.

On September 22, 2018, the U.S. Department of Homeland Security proposed a rule that would change "public charge" determinations for individuals seeking admission into the United States or adjustments to their legal residency status. Under the current law, individuals can be denied legal standing if they are considered at risk of becoming a "public charge" because of their dependence on the government for subsistence. Public charge determinations today are based solely on the use of cash benefit programs (e.g., Temporary Assistance for Needy Families [TANF], Supplemental Security Income [SSI]) or institutionalization for long-term care at the government's expense (e.g., through

Medicaid). The proposed rule would expand the types of programs considered in public charge determinations to include Medicaid, the Supplemental Nutrition Assistance Program (SNAP), and the Medicare Part D Low-Income Subsidy Program, as well as several housing programs.

**Child Trends and the Hispanic Center recommend that the Department of Homeland Security withdraw its proposal to define “public charge” through regulation, as we believe the proposed definition will cause undue harm to children.** If approved, the rule would disproportionately affect Hispanic families and children, who comprise approximately half of the immigrant population today.<sup>1</sup> We present four reasons for our recommendation.

**The proposed rule asks parents who are lawfully residing in the United States, and who are applying for permanent residency or temporary visas, to either forgo benefits that support their families or risk separation from their children.** Under the proposed rule, the uptake of these services would have a negative impact on their immigration cases and could result in families being separated if asylum or residency is denied. Thus, the proposed rule would place immigrant families in a position where parents must choose between placing their families at risk of separation if they use services or falling short on essential resources for their children if they decide to forgo the use of services for which they are legally eligible. The potential impacts of this proposed rule are far-reaching: Currently, 1 in 4 children in the United States lives with an immigrant parent, and most of those children are U.S. citizens.<sup>2</sup>

Most foreign-born individuals are employed; in particular, labor force participation rates are higher among immigrant men than among those born in the United States.<sup>3</sup> Among low-income fathers, Hispanic immigrants are more likely to work for pay (83 percent) than non-Hispanic white (66 percent), U.S.-born Hispanic (61 percent), and non-Hispanic black (58 percent) fathers.<sup>4</sup> Still, immigrants are more likely to work in service occupations, with low wages and limited or no access to employer-provided benefits.<sup>3,4</sup> Consequently, more than half of all children of immigrants live in low-income households,<sup>5</sup> in which it can be difficult to make ends meet. Safety net programs like TANF, SNAP, and Medicaid provide support to families trying to ensure that their immediate needs are met.

Poverty and poverty-related stressors can hinder parents’ ability to provide for their families, both financially and emotionally, with negative consequences for children’s mental, emotional, and behavioral health.<sup>6</sup> Children living in poverty are more likely to experience food and housing insecurity and to have inadequate access to health care.<sup>7,8</sup> For these reasons, social assistance programs play a critical role in providing families a safety net to mitigate poverty-related hardships.

Forgoing social assistance can have profound negative effects on child and family well-being. If approved, the proposed rule would place families that use these services at risk of forceful separation if they are denied legal status in the United States because of a determination that they could become a public charge. There is ample evidence of the negative consequences that forced separation of children from their parents can have on children's outcomes.<sup>9</sup> These include trauma, brain alterations, long-term mental and physical health problems, and developmental issues.<sup>10</sup> In a previous commentary, we expressed our strong opposition to policies that place immigrant families at risk of being separated, and provided research showing the harm that such separations would inflict on children.<sup>11</sup>

**The rule will have a broad, chilling effect that will likely deter families with eligible children from accessing necessary care.** Policies targeting one group can have spillover effects on others because policies that marginalize certain populations can foster fear and mistrust of the government and institutions. There is evidence that immigrant families, including those who are lawfully present in the United States, are experiencing high levels of fear and uncertainty because of shifts in immigration policy and discourse.<sup>12</sup> This fear, coupled with confusion around eligibility, can deter families who are eligible for benefits from seeking public assistance. Indeed, a recent Hispanic Center report found that low- to middle-income Latino parents who were naturalized U.S. citizens often reported that they had not applied for government services due to immigration concerns.<sup>13</sup>

Trends in the use of benefits before and immediately after the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996 show evidence of chilling effects that resulted in lower program participation among eligible individuals.<sup>14</sup> A comparison of benefit use in 1994 and 1997 shows that the use of welfare, food stamps, and Medicaid dropped more sharply among noncitizens and refugees than among citizens, even though eligibility on the basis of immigration status did not change significantly during that period.<sup>15</sup> Recent data show that, even prior to the formal announcement of the proposed rule, families were forgoing public benefits due to concerns related to the potential consequences of service uptake for their family's immigration cases.<sup>16</sup>

Forgoing benefit programs will disproportionately hurt children. Program participation is highest among children under age 18, at 40 percent.<sup>17</sup> In particular, reductions in the use of services would largely impact children's and families' access to health care and food supplements, as Medicaid and SNAP are the programs with the highest participation rates among families receiving government assistance (84 and 52 percent, respectively).<sup>18</sup>

Reductions in health care coverage will have far-reaching consequences for children and the U.S. population at large. In the United States, Medicaid plays a critical role in securing the nation's health from the very early stages in life. Two in five (43 percent) births in 2017 were covered by Medicaid; among Hispanics, this percent is even higher, at 60 percent.<sup>19</sup> Access to health insurance during pregnancy provides expectant mothers the opportunity to receive adequate prenatal care, which reduces the risk for pregnancy and birth complications and supports the fetus's healthy development.<sup>20</sup> During childhood, access to health insurance increases the chance that children will receive preventive services needed to ensure that they grow up strong and healthy, including vaccinations and screenings.<sup>21-24</sup> Such measures are important from a public health perspective, as they can prevent the spread of infectious diseases across the population. Uninsured children or those with interrupted services experience delayed care, unmet medical care, and unfilled prescriptions.<sup>25</sup>

Among Hispanics, there are large disparities in access to health insurance. As mentioned above, low-income Hispanic parents are less likely to receive employer-provided health insurance than their white peers.<sup>4</sup> It is not surprising, then, that Hispanic children are less likely to have health insurance than their non-Hispanic counterparts.<sup>26</sup> Even after the passage of the Affordable Care Act, approximately 1 in 10 low-income Hispanic children lack health insurance coverage.<sup>27</sup> Changes in public charge determinations would only exacerbate differences in access to health insurance and adequate health care between Hispanics and whites. Many families will likely decide to forgo government-provided health insurance to avoid any potential negative consequences but, at the same time, low wages and a lack of affordable health care options will make health insurance a prohibitive expense.

In addition, SNAP plays an important role in reducing food insecurity.<sup>28</sup> Reductions in the use of food assistance programs like SNAP will likely increase the already high number of children of immigrants who live in food-insecure households.<sup>29</sup> Strong evidence shows that food insecurity is associated with depression, anxiety, and chronic disease in adults and with academic, behavioral, and health problems in children. It is also associated with inadequate medical care, delays in medication use, and increased hospitalization and visits to the emergency department.<sup>30-33</sup>

In sum, widespread reductions in the use of benefits as a response to fear and uncertainty about the potential consequences of service uptake will likely push already struggling families into deeper poverty and amplify existing disparities in access to basic resources like health care, food, and shelter.

**The rule targets a population (immigrants) that already has lower rates of participation in public benefit programs relative to U.S.-born individuals.**<sup>34</sup> Perceptions of high use of public assistance among immigrants are unfounded. Recent data show that immigrants use welfare and entitlement programs less frequently than nonimmigrants, despite their high levels of poverty.<sup>35</sup> This is true even when considering individuals with similar incomes, age, and eligibility for benefits. Immigrants living at or below 200 percent of the poverty line are less likely to use cash assistance, SNAP, SSI, Medicare, and Social Security benefits than their U.S.-born counterparts. Similarly, immigrant children living in poverty are less likely to receive cash assistance, SNAP, SSI, and Medicaid than their U.S.-born peers. Moreover, when they do receive aid, immigrants receive a smaller dollar amount in benefits, costing the government less money.<sup>34</sup>

There are various reasons for immigrants' lower participation in public assistance programs. Confusion about eligibility requirements and fear about the potential consequences are common reasons.<sup>36</sup> Many immigrants are not familiar with the existence of public assistance programs, are not aware that they can apply, or think that they are ineligible.<sup>13</sup> Reports from in-depth qualitative interviews have revealed that many immigrants do not apply for public benefits because of their fear of "public charge" declarations, misconceptions about other potential consequences (e.g., having to pay back benefits), mistrust in public officials, and avoidance of stereotypes associated with the use of benefits.<sup>37</sup> Thus, there are already barriers to participation in government assistance programs among immigrants, and the number of eligible immigrants who use these programs is lower than would be expected given the population's overall need. The proposed rule would further restrict access to necessary services, forcing families in need to make impossible choices.

**The proposed rule contains monetary and time determinations that are set at a low and seemingly arbitrary threshold. In addition, the rule does not include a reasoned argument to illustrate the relationship between the threshold and the potential for self-sustainability.** Under the proposed rule, an individual would have to receive benefits with a cash value set at 15 percent or more of the federal poverty line in a 12-month period (\$3,765 for a family of four), or receive at least one of the "non-monetizable" public benefits (Medicaid, Medicare Part D, institutionalization for long-term care at government's expense, subsidized housing) for 12 consecutive months in a 36-month period to be considered a public charge. We are unaware of any research indicating that the proposed thresholds for public charge determinations signal a long-term reliance on public assistance.

These proposed monetary and time determinations will primarily affect families with children. Most beneficiaries (69 percent) participate in programs for more than 12 months; children under age 18 are most likely to use programs for an extended period of time (36 to 48 months).<sup>17</sup> In addition, national data show that more than half (52 percent) of full-time workers participate in programs for more than 12 months over the course of 36 months.<sup>17</sup> The proposed rule presumes that long-term reliance on public assistance (narrowly defined) signals an inability to become self-sufficient. However, research shows that welfare receipt, whether it be long-term or short-term, has no bearing on an individual's wage growth—a critical factor contributing to achieving self-sufficiency—but that work experience does have an effect.<sup>38</sup> Thus, individuals receiving public assistance as they acquire work experience to increase their growth potential should not be considered a public charge by default. The proposed rule would have this effect.

We appreciate the opportunity to provide comments and suggestions regarding *Inadmissibility on Public Charge Grounds*, and we are able to expand on any of these points as you seek solutions that are mindful of our concerns. For any questions regarding this letter, please contact Carol Emig at Child Trends ([cemig@childtrends.org](mailto:cemig@childtrends.org); 240.223.9203) or Lina Guzman at the National Research Center on Hispanic Children & Families ([lguzman@childtrends.org](mailto:lguzman@childtrends.org); 240.223.9206).

Sincerely,

/s/

Carol Emig  
President  
Child Trends

Lina Guzman  
Director  
National Research Center on Hispanic  
Children & Families

## References

- <sup>1</sup>Radford, J., & Budiman, A. (2018). *Facts on U.S. Immigrants, 2016*. Washington, DC: Pew Research Center, Hispanic Trends. from <http://www.pewhispanic.org/2018/09/14/facts-on-u-s-immigrants/#fb-key-charts-origin>
- <sup>2</sup>Lou, C. (2018). *How many children of immigrants live in the US? The answer is hard to pin down.* . Washington, DC: Urban Institute. from <https://www.urban.org/urban-wire/how-many-children-immigrants-live-us-answer-hard-pin-down>
- <sup>3</sup>Bureau of Labor Statistics. (2018). *Foreign-Born Workers: Labor Force Characteristics - 2017*. Washington, DC: Bureau of Labor Statistics, U.S. Department of Labor, . from <https://www.bls.gov/news.release/pdf/forbrn.pdf>
- <sup>4</sup>Wildsmith, E., Ramos-Olazagasti, M. A., & Alvira-Hammond, M. (2018). *The job characteristics of low-income Hispanic parents*. Bethesda, MD: National Research Center on Hispanic Children & Families. from <http://www.hispanicresearchcenter.org/publications/the-job-characteristics-of-low-income-hispanic-parents/>
- <sup>5</sup>Woods, T., & Hanson, D. (2016). *Demographic trends of children of immigrants*. Washington, DC: Urban Institute. from [https://www.urban.org/sites/default/files/publication/85071/2000971-demographic-trends-of-children-of-immigrants\\_2.pdf](https://www.urban.org/sites/default/files/publication/85071/2000971-demographic-trends-of-children-of-immigrants_2.pdf)
- <sup>6</sup>Yoshikawa, H., Aber, J. L., & Beardslee, W. R. (2012). The effects of poverty on the mental, emotional, and behavioral health of children and youth: Implications for prevention. *American Psychologist*, 67(4), 272.
- <sup>7</sup>Pascoe, J. M., Wood, D. L., Duffee, J. H., Kuo, A., Committee on Psychosocial Aspects of Child and Family Health, & Council on Community Pediatrics. (2016). Mediators and adverse effects of child poverty in the United States. *Pediatrics*, 137(4), e20160340.
- <sup>8</sup>Council on Community Pediatrics. (2016). Poverty and child health in the United States. *Pediatrics*, 137(4).
- <sup>9</sup>Bouza, J., Camacho-Thomson, D., Carlo, G., Franco, X., Garcia Coll, C., Halgunseth, L., et al. (2018). *The science is clear: Separating families has long-term damaging psychological and health consequences for children, families and communities*. Washington, DC: Society for Research in Child Development. from [http://srcd.org/sites/default/files/documents/the\\_science\\_is\\_clear.pdf](http://srcd.org/sites/default/files/documents/the_science_is_clear.pdf)
- <sup>10</sup>Ramos-Olazagasti, M. A. (2018). *Applying child development research to immigration policy*. Bethesda, MD: National Research Center on Hispanic Children & Families. from <http://www.hispanicresearchcenter.org/publications/applying-child-development-research-to-immigration-policy/>

<sup>11</sup> National Research Center on Hispanic Children & Families, & Child Trends. (2018). *Hispanic Center, Child Trends submit comment on proposed replacement of Flores Settlement*. Bethesda, MD: Child Trends and The National Research Center on Hispanic Children & Families. from <http://www.hispanicresearchcenter.org/nrc-news/hispanic-center-child-trends-submit-comment-on-proposed-replacement-of-flores-settlement/>

<sup>12</sup> Artiga, S., & Ubri, P. (2017). *Living in an immigrant family in America: How fear and toxic stress are affecting daily life, well-being, & health*. Washington, DC: Kaiser Family Foundation. from <https://www.kff.org/disparities-policy/issue-brief/living-in-an-immigrant-family-in-america-how-fear-and-toxic-stress-are-affecting-daily-life-well-being-health/>

<sup>13</sup> Alvira-Hammond, M., & Gennetian, L. (2015). *How Hispanic parents perceive their need and eligibility for public assistance*. Bethesda, MD: National Research Center on Hispanic Children & Families. from <http://www.hispanicresearchcenter.org/publications/how-hispanic-parents-perceive-their-need-and-eligibility-for-public-assistance/>

<sup>14</sup> Bernstein, H., & Pyati, A. (2018). *Expanding the “public charge” rule jeopardizes the well-being of immigrants and citizens*. Washington, DC: Urban Institute. from <https://www.urban.org/urban-wire/expanding-public-charge-rule-jeopardizes-well-being-immigrants-and-citizens>

<sup>15</sup> Fix, M., & Passel, J. S. (1999). *Trends in noncitizens' and citizens' use of public benefits following welfare reform*. Washington, DC: Urban Institute. from <https://www.urban.org/sites/default/files/publication/69781/408086-Trends-in-Noncitizens-and-Citizens-Use-of-Public-Benefits-Following-Welfare-Reform.pdf>

<sup>16</sup> Artiga, S., & Lyons, B. (2018). *Family consequences of detention/deportation: Effects on finances, health, and well-being*. Washington, DC: Kaiser Family Foundation. from <http://files.kff.org/attachment/Family-Consequences-of-Detention-Deportation-Effects-on-Finances-Health-and-Well-Being>

<sup>17</sup> Irving, S. K., & Loveless, T. A. (2015). *Dynamics of economic well-being: Participation in government programs, 2009-2012: Who gets assistance?*. Washington, DC: United States Census Bureau, U.S. Department of Commerce. from <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p70-141.pdf>

<sup>18</sup> Bureau of Labor Statistics. (2018). *Program participation and spending patterns of families receiving government means-tested assistance*. Washington, DC: Bureau of Labor Statistics. from <https://www.bls.gov/opub/mlr/2018/article/program-participation-and-spending-patterns-of-families-receiving-means-tested-assistance.htm>

<sup>19</sup> Martin, J., Hamilton, B., Osterman, M., Driscoll, A., & Drake, P. (2018). *Births: Final data for 2017*. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Vital Statistics System. from [https://www.cdc.gov/nchs/data/nvsr/nvsr67/nvsr67\\_08-508.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr67/nvsr67_08-508.pdf)



<sup>20</sup> Partridge, S., Balayla, J., Holcroft, C. A., & Abenheim, H. A. (2012). Inadequate prenatal care utilization and risks of infant mortality and poor birth outcome: A retrospective analysis of 28,729,765 US deliveries over 8 years. *American journal of perinatology*, 29(10), 787-794.

<sup>21</sup> Allred, N. J., Wooten, K. G., & Kong, Y. (2007). The association of health insurance and continuous primary care in the medical home on vaccination coverage for 19-to 35-month-old children. *Pediatrics*, 119(Supplement 1), S4-S11.

<sup>22</sup> Murphey, D. (2017). *Health insurance coverage improves child well-being*. Bethesda, MD: Child Trends. from <https://www.childtrends.org/publications/health-insurance-coverage-improves-child-well>

<sup>23</sup> Wagnerman, K. (2017). *Medicaid provides needed access to care for children and families*. Washington, DC: Georgetown University Health Policy Institute, Center for Children and Families. from <https://ccf.georgetown.edu/wp-content/uploads/2017/03/Medicaid-provides-needed-access-to-care.pdf>

<sup>24</sup> Blewett, L. A., Davidson, G., Bramlett, M. D., Rodin, H., & Messonnier, M. L. (2008). The impact of gaps in health insurance coverage on immunization status for young children. *Health services research*, 43(5 Pt 1), 1619-1636.

<sup>25</sup> Olson, L. M., Tang, S.-f. S., & Newacheck, P. W. (2005). Children in the United States with discontinuous health insurance coverage. *New England Journal of Medicine*, 353(4), 382-391.

<sup>26</sup> Murphey, D., Guzman, L., & Torres, A. (2014). *America's Hispanic Children: Gaining Ground, Looking Forward*. Bethesda, MD: Child Trends. from <https://www.childtrends.org/publications/americas-hispanic-children-gaining-ground-looking-forward>

<sup>27</sup> Wildsmith, E., Alvira-Hammond, M., & Guzman, L. (2016). *A national portrait of Hispanic children in need*. Bethesda, MD: National Research Center on Hispanic Children & Families. from <http://www.hispanicresearchcenter.org/publications/a-national-portrait-of-hispanic-children-in-need/>

<sup>28</sup> Mykerezi, E., & Mills, B. (2010). The impact of food stamp program participation on household food insecurity. *American Journal of Agricultural Economics*, 92(5), 1379-1391.

<sup>29</sup> Chilton, M., Black, M. M., Berkowitz, C., Casey, P. H., Cook, J., Cutts, D., et al. (2009). Food insecurity and risk of poor health among US-born children of immigrants. *American journal of public health*, 99(3), 556-562.

<sup>30</sup> Whitaker, R. C., Phillips, S. M., & Orzol, S. M. (2006). Food insecurity and the risks of depression and anxiety in mothers and behavior problems in their preschool-aged children. *Pediatrics*, 118(3), e859-e868.

- <sup>31</sup> Jyoti, D. F., Frongillo, E. A., & Jones, S. J. (2005). Food insecurity affects school children's academic performance, weight gain, and social skills. *The Journal of nutrition*, *135*(12), 2831-2839.
- <sup>32</sup> Seligman, H. K., Laraia, B. A., & Kushel, M. B. (2009). Food insecurity is associated with chronic disease among low-income NHANES participants. *The Journal of nutrition*, *140*(2), 304-310.
- <sup>33</sup> Kushel, M. B., Gupta, R., Gee, L., & Haas, J. S. (2006). Housing instability and food insecurity as barriers to health care among low-income Americans. *Journal of general internal medicine*, *21*(1), 71-77.
- <sup>34</sup> Nowrasteh, A., & Orr, R. (2018). *Immigration and the welfare state*. Washington, DC: Cato Institute. from <https://object.cato.org/sites/cato.org/files/pubs/pdf/irpb6.pdf>
- <sup>35</sup> DeNavas-Walt, C., & Proctor, B. D. (2015). *Income and poverty in the United States: 2014*. Washington, DC: U.S. Government Printing Office, Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.
- <sup>36</sup> Capps, R., Koball, H., Campetella, A., Perreira, K., Hooker, S., & Pedroza, J. M. (2015). *Implications of immigration enforcement activities for the well-being of children in immigrant families*. Washington, DC: Urban Institute and Migration Policy Institute. from <https://www.urban.org/sites/default/files/alfresco/publication-exhibits/2000405/2000405-Implications-of-Immigration-Enforcement-Activities-for-the-Well-Being-of-Children-in-Immigrant-Families.pdf>
- <sup>37</sup> Yoshikawa, H. (2011). *Immigrants raising citizens: Undocumented parents and their young children*. New York, NY: Russell Sage Foundation.
- <sup>38</sup> Loeb, S., & Corcoran, M. (2001). Welfare, work experience, and economic self-sufficiency. *Journal of Policy Analysis and Management*, *20*(1), 1-20.