



December 10, 2018

Samantha Deshommès  
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

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

**Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds**

Dear Ms. Deshommès:

On behalf of the over 170,000 members and supporters of the American Association of University Women (AAUW), I am writing today in response to the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking (NPRM) to express our opposition to the changes regarding "public charge," published in the Federal Register on October 10, 2018. We urge that the rule be withdrawn in its entirety and that the longstanding principles clarified in the 1999 field guidance remain in effect.

For over 135 years, AAUW has been working to empower women and girls through research, education, and advocacy. AAUW's Public Policy Priorities support the civil and human rights of all immigrants including a fair and just path to legal status.<sup>1</sup> The proposed rule represents a radical change in current policy that is contrary to AAUW's mission to advance equity for women and girls and will have a particular impact on the people whose interests we represent. If adopted, as discussed below, the rule would disproportionately impact the economic security, health, and well-being of immigrant women, children, and their families.

**Overview**

A "public charge" determination is made by U.S. immigration officials when a person applies to enter the U.S. or to adjust to Lawful Permanent Resident status. Under current policy, someone is considered a public charge if they are primarily dependent on the government for subsistence. While the existing "public charge" test is inherently problematic, the proposed rule would make it much worse by widening the scope of programs that are covered and counted in a determination of "public charge," as well as expanding the definition of who is covered to include any immigrant who simply receives one or more public benefits.

If the proposed rule is finalized, immigration officials could consider a much wider range of government programs in the public charge determination, harmfully expanding the definition of public charge to include anyone who is likely to receive a wide range of health, nutrition, housing assistance, and cash benefits. In particular, the proposed rule would negatively weigh certain factors, some of which are specifically harmful to women and families, including, for example, whether a person has an income of less than 125 percent of the Federal Poverty Level, is younger than 18 or older than 60, has a large family, or has a critical medical

condition without insurance coverage. Together, these proposals would drastically increase the scope of who would be considered a public charge to include not only those who receive cash benefits as their main source of support, but also people who use public benefit programs, even while employed. If adopted, this rule will have a disproportionate effect on women and their families. We urge you to withdraw this rule in its entirety.

**The proposed rule would be harmful to immigrant women and their economic security.**

The proposed rule would be especially harmful to immigrant women, who are more likely to use the benefits targeted by the proposed rule than immigrant men. Immigrant women of color generally are at higher risk of economic insecurity than men because of the pay gap<sup>2</sup> and other forms of workplace discrimination,<sup>3</sup> overrepresentation in low-wage work,<sup>4</sup> and disproportionate responsibility for caregiving,<sup>5</sup> among other factors. This heightened risk for economic insecurity means that immigrant women's ability to continue to participate in the programs targeted by the proposed rule is vitally important.

Immigrants also face significantly higher barriers to accessing programs like Medicaid, SNAP, and housing assistance.<sup>6</sup> Discouraging immigrant women's use of these programs – as the proposed rule does – would have a detrimental impact on the livelihood and well-being of immigrant women and their families, forcing them in to a position of choosing between programs that support their safety, independence, and economic security and negatively affecting their immigration status. The proposed rule would be especially harmful to the economic security of immigrant women and their families and for that reason we urge the Department of Homeland Security to withdraw this harmful rule.

**The proposed rule would be harmful to women's health.**

The proposed rule's unprecedented consideration of Medicaid as part of the public charge determination poses a threat to the health of all immigrants, specifically immigrant women. Medicaid is a critically important program for immigrant women, as it covers a range of women's health services. Under existing provisions, immigrants must wait five years after becoming a lawful permanent resident before they are eligible to receive Medicaid benefits. But for a certain, limited group of immigrants for whom the proposed rule would apply and are also eligible for Medicaid benefits, they face having their use of Medicaid counted against them. These individuals include, for example, those who have been granted withholding of deportation, like those eligible for DACA, or people with protected statuses, like asylees, who then decide to apply for a lawful permanent resident status. While current provisions already pose barriers for women and families needing to access health care services, this proposed rule would create new hurdles for the limited population of immigrant women who are eligible for Medicaid. This once again forces individuals to choose between critical health coverage and becoming a lawful permanent resident.

Moreover, the proposed rule directly targets immigrant women's ability to make decisions about the structure of their families, particularly if or when to have children by limiting access to reproductive health. The proposed rule also targets immigrant women by counting a large family against them as part of the public charge determination. When women forgo medical assistance including preventative care, reproductive health care, and assistance for easily treatable illnesses or medical conditions, they jeopardize their health and economic security.

While this rule would not punish those who seek health care services that are unconnected to Medicaid, some immigrant women may lose, choose to disenroll, or avoid Medicaid and put their health at risk for fear of jeopardizing their future immigration status. This proposed rule and its implications are also generating fear and confusion that has already had – and will continue to have – a chilling effect on immigrant women's seeking vital services. For these reasons, among others, we urge the Department of Homeland Security to withdraw this harmful rule.

### **The proposed rule would harm survivors of domestic violence and sexual assault.**

The proposed rule will also have a detrimental impact on survivors of domestic violence and sexual assault and their ability to keep themselves and their families safe from abuse. Survivors often face unique economic, physical, psychological, and social challenges, often requiring access to public benefits that help meet basic needs. Health care, housing, food assistance, and other public benefits play a pivotal role in helping survivors escape and heal from domestic violence and sexual assault and are imperative for women's safety. Access to these services is often the determining factor for whether they can leave an abusive relationship, and is critical to helping them establish a safer and more stable life. By disincentivizing access to such benefits, the proposed rule would put the safety of survivors of domestic violence or sexual assault at greater risk. For this additional reason, we urge the Department of Homeland Security to reconsider their proposal and withdraw this harmful rule.

### **Conclusion**

If enacted, the proposed rule would be particularly harmful to women. It would force immigrant women into the untenable position of having to choose between caring for themselves and their families by seeking Medicaid, SNAP, or other public benefits, or protecting their immigration status. It would harm women's economic security and access to healthcare. And it poses particular harm to certain groups of women, including women with disabilities, survivors of domestic violence and sexual assault, older women, and women who are caregivers or need caregivers. For all these reasons, we oppose this proposed rule.

Thank you for this opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact me at [vaginsd@aauw.org](mailto:vaginsd@aauw.org) or Pam Yuen, AAUW's Senior Government Relations Coordinator, at [yuenp@aauw.org](mailto:yuenp@aauw.org) to provide further information.

Sincerely,



Deborah J. Vagins  
Senior Vice President, Public Policy and Research

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<sup>1</sup> AAUW. (2017). *AAUW Public Policy Priorities*. <https://www.aauw.org/resource/principles-and-priorities/>.

<sup>2</sup> AAUW. (2018). *The Simple Truth About the Gender Pay Gap*. <https://www.aauw.org/research/the-simple-truth-about-the-gender-pay-gap/>.

<sup>3</sup> AAUW. (2018). *Know Your Rights: Sexual Harassment*. <https://www.aauw.org/what-we-do/legal-resources/know-your-rights-at-work/workplace-sexual-harassment/>.

<sup>4</sup> American Immigration Council. (2017). *The Impact of Immigrant Women on America's Labor Force*. <https://www.americanimmigrationcouncil.org/research/impact-immigrant-women-americas-labor-force>.

<sup>5</sup> U.S. Census Bureau. (2018). *America's Families and Living Arrangements: 2018*. <https://www.census.gov/data/tables/2018/demo/families/cps-2018.html>.

<sup>6</sup> National Immigration Law Center. (2015). *Overview of Immigrant Eligibility for Federal Programs*. <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>.