



THIRD WAY

The Honorable Kirstjen Nielsen
Secretary of Homeland Security
US Department of Homeland Security
Washington, DC 20528

Re: USCIS-2010-0012

Dear Secretary Nielsen,

We write to oppose the Department of Homeland Security's (DHS) proposed changes to inadmissibility on public charge grounds. Immigration remains crucial to the prosperity and well-being of the United States. Immigrants contribute to our communities, create businesses, and are essential to our future as a nation.

Moreover, potential immigrants already face substantial obstacles to obtaining a visa to the United States and once they arrive here, they are barred from accessing the majority of federally funded social safety net programs. As such, the proposed changes problematically seek to further restrict lawful immigration while lacking adequate justifications for their draconian impacts. Our immigration system is in need of serious reforms to ensure that it works for both immigrants and Americans alike. The proposed Public Charge rule changes fail to promote or accomplish this. We should remain steadfastly welcoming to immigrants seeking to follow our immigration rules and hoping to attain the American dream.

In particular, we believe the public charge inadmissibility regulations are unwise because:

- 1. Legal permanent residents already face severe restrictions in access to social safety net programs.** Legal permanent residents and recipients of non-immigrant visas are already heavily restricted in their access to public assistance programs. Since the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, most immigrants have been prohibited from receiving support under the major federal safety net programs. Immigrants in the US are typically ineligible for at least five years to receive Medicaid; Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI); Children's Health Insurance Program (CHIP); and, Supplement Nutrition Assistance Program (SNAP).

These programs make up a sizable portion of federal support for low-income people. Medicaid, SSI, CHIP, and SNAP alone cover 71% of federal means-tested benefits, and immigrants are usually prohibited from accessing them until they have been a green card holder for five years or naturalize as citizens. And even after an immigrant becomes eligible for these programs after years of living and paying taxes in the US, receiving many of them can still be factored into a public charge determination. As such, creating draconian limits on legal immigration based on public assistance needlessly harms potential immigrants.

2. **The Proposed Factors treat Middle Class Immigrants and Families Unfairly.** The proposed rule sets an income threshold at 250% of the federal poverty guidelines (\$62,750) to receive a “heavily weighted positive” in a public charge determinations income assessment. Under this change, a family of four earning the 2017 median household income (\$61,372) would thus not receive a positive assessment of their income. They would instead be unfairly subjected to increased scrutiny, regardless of their usage of any public program, because they did not meet a bright-line income test. The public charge determination has always been intended to consider the total circumstances of an individual. A bright-line positive or negative income threshold therefore unhelpfully subverts this, instead biasing the public charge determinations against middle and low-income immigrants, regardless of if they used a single public benefit program.

Similarly, other aspects within the public charge determination have been given specific standards which could be used by the Administration to reject certain immigrants. Family size is now a specific consideration for if a person is likely to become a public charge, whereas family status was just broadly considered before. And when considering if a person’s education and skills are sufficient to pass a public charge determination, the regulation directs officials to now explicitly examine proficiency.

3. **The Proposed Public Charge Bonds are excessive and unnecessary.** The new rules would also allow DHS to collect a minimum \$10,000 surety bond from those it deems likely to become a public charge. While DHS currently has the discretion to accept these types of bonds, it does not impose a \$10,000 minimum. This imposition is unnecessary and counterproductive. The Department itself acknowledges that these types of bonds are rarely used. Instead, it utilizes affidavits of support from a sponsor if an individual is found likely to become a public charge in the government’s eyes. These affidavits already give the government sufficient assurances that an individual will not become overly reliant on the social safety net, without forcing immigrants to freeze significant assets in government-held bonds.
4. **CHIP should remain excluded from public charge determinations.** The proposed changes currently exclude the Children’s Health Insurance Program (CHIP) from consideration under a public charge test, but the Department has called for public comment on their inclusion. CHIP should categorically remain outside the public charge determination. It provides vital health care coverage for children across the country, primarily to American citizen children.

Including CHIP in the public charge determination would have a severe chilling effect on families willing to apply for the program on behalf of their children, including American citizen children born to lawful immigrants. Children rely on their parents to access social safety net programs. Considering CHIP would create an impossible choice for parents between the health of their children and their future in this country. It is therefore imperative that CHIP and other programs which serve children be excluded from public charge considerations.

The foundation of American success has long included hardworking immigrants seeking the American dream. Yet the proposed changes to the public charge inadmissibility grounds would close the door to thousands of immigrants who are following all the rules and who make significant contributions to their communities in this country.

Sincerely,
Third Way