

INSTRUCTIONS: HOW TO USE THIS PUBLIC CHARGE TEMPLATE

COMMENT FOR WIC STAFF

Thank you so much for drafting a unique comment reflecting the views and expertise that you and your clinic/ agency bring to this issue as WIC staff - it is incredibly important.

Attached is a template to help you draft your own comments in opposition to the public charge notice of proposed rulemaking. This model comment has been prepared by the National WIC Association (NWA), based on language provided by the Protecting Immigrant Families Coalition. Please reach out to Nell Menefee-Libey at nmenefee@nwica.org with any questions or concerns.

The deadline for comments is December 19, 2025, at midnight ET. Comments should be submitted online at <https://www.regulations.gov/commenton/USCIS-2025-0304-0001>. Either enter your comment in the text box (must be fewer than 5000 characters) or upload your comments as a PDF. **There is no length limit on PDF comments.** (There is a maximum file size, but you are allowed to submit multiple documents.)

Why Your Comment Matters

Your comment matters for two major reasons.

- The Administration is required to consider all comments. The Administrative Procedures Act requires that they review and respond to all comments in developing the final rule.
- Should the Administration nonetheless publish a damaging final rule, the comments provided by the public will be extremely important for litigation.

In addition, the comments are also important for telling the story to the broader public and outlining how WIC families, providers, and their communities would be impacted by this rule. As WIC staff, you are the experts in the program and can speak directly to your own experience serving immigrant families, as well as the broader positive impacts of participating in WIC.

Tips for Commenting

Write comments in your own words. It's very important that your comment be unique and not be or appear to be a copy of others. That's because agency staff must code and organize all comments – but if they conclude comments are just duplicates, they may dismiss them without analyzing them. The process is very different if they must pause and consider the content of each comment, as opposed to just counting the number of commenters saying the same thing.

Modify the template to reflect your own thoughts and experiences so that it counts as a unique comment. You can achieve that by (a) ensuring that you include your own thoughts and experiences and (b) skipping or summarizing briefly the sections of the template where you do not have in-depth thoughts to add. **Sections marked in yellow are prompts for you to add to the template. Whether you respond to them or not, please delete them from the version of the comment you submit.**

If you have credibility in an issue area, say so. If you are a subject matter expert and want to offer comments on your area of expertise, explain why you are uniquely qualified to offer this perspective.

- **Explain your experience and expertise, or that of your organization, up front in the template.** This gives the reader a window on your unique perspective right at the beginning. Feel free to explain your educational and professional background or attach a copy of your CV to your comments.
- **If you are an expert on a program, please detail how that program improves people's lives and why taking away guideposts and frightening families away from the program will harm individuals, families, and communities.** For example: I oppose the proposed public charge rule that could cause millions of children and families to disenroll from cooling and heating assistance programs and expose them to unsafe and unhealthy conditions (add data and examples).
- **If you work directly with immigrants, please describe what the uncertainty of the proposed rule would mean for them and their communities.** Please also address why they usually come to the country; how they contribute to their families and community; how they use government benefits and what it means for the well-being of them and their children; how you have relied on the bright line guidance of the previous regulations to counsel immigrants.

Attach research and supporting documents. If you cite research and supporting documents in your comments, we also recommend including them as an attachment so that they are clearly part of the administrative record. Another option is to include a live link to cited sources. If you include links, specifically request that the agency read the material at these links.

12/19/2025

Submitted via www.regulations.gov

The Honorable Kristi Noem
Secretary of Homeland Security
Washington, D.C. 20528

Re: DHS Docket No. USCIS-2025-0304, U.S. Citizenship and Immigration Services

I am writing on behalf of [organization name] in response to the Department of Homeland Security's (DHS, or the Department) Notice of Proposed Rulemaking (NPRM) to express our strong opposition to the changes regarding "public charge," published in the Federal Register on November 19, 2025.

[INSERT paragraph describing your organization and why this is urgent to you. Discuss your experience working in WIC and why you are particularly concerned about the impacts of the proposed rule on the families you serve.]

The Trump Administration has repeatedly affirmed its support for WIC as part of the President's strategy to Make America Healthy Again. WIC was prominently highlighted in the *Make Our Children Healthy Again* report as an example of a highly effective federal nutrition program.¹

The evidence demonstrates that WIC's public health and nutrition services improve birth outcomes and early childhood health and development.^{2 3} WIC has been instrumental in reducing pre-term and low-weight births,⁴ addressing iron deficiency and anemia,⁵ and improving diet quality.⁶ Targeted nutrition assistance at the early stages of life is proven to have long-term positive effects on both health and productivity,⁷ preparing children to become self-sufficient adults. Permitting DHS officers to consider WIC in the public charge test – even if only considered in the totality of the circumstances – would discourage participation by pregnant women and young children, leading to worse health outcomes and decreased long-term economic output. WIC participants must already meet strict criteria, demonstrating income eligibility and proof of residence, and must be determined to be at nutritional risk to participate.

¹The White House. *The MAHA Report: Make Our Children Healthy Again*. May 22, 2025.

<https://www.whitehouse.gov/wp-content/uploads/2025/05/MAHA-Report-The-White-House.pdf>

² Bolbocean, C., & Tylavsky, F. A. (2021). The Impact of Safety Net Programs on Early-Life Developmental Outcomes. *Food Policy*, 100, 102018. <https://doi.org/10.1016/j.foodpol.2020.102018>

³ Guan, A., Hamad, R., Batra, A., Bush, N. R., Tylavsky, F. A., & LeWinn, K. Z. (2021). The Revised WIC Food Package and Child Development: A Quasi-Experimental Study. *Pediatrics*, 147(2), e20201853. <https://doi.org/10.1542/peds.2020-1853>

⁴ Kathryn Fingar, et al., "Reassessing the Association between WIC and Birth Outcomes Using a Fetuses-at-Risk Approach," 21 *J. Maternal and Child Health* 825 (2017).

⁵ Sanjeevi, N, Feeland-Graves, J. (2022). The Special Supplemental Nutrition Program for Women, Infants, and Children food package revisions and anemia in children aged 2–5 years. *The American Journal of Clinical Nutrition*, 116(4), 1030-1037. <https://doi.org/10.1093/ajcn/nqac141>

⁶ Morshed, A. B., Davis, S. M., Greig, E. A., Myers, O. B., & Cruz, T. H. (2015). Effect of WIC Food Package Changes on Dietary Intake of Preschool Children in New Mexico. *Health Behavior and Policy Review*, 2(1), 3–12. <https://doi.org/10.14485/HBPR.2.1.1>

⁷ Jackson, M. I. (2015). Early Childhood WIC Participation, Cognitive Development, and Academic Achievement. *Social Science & Medicine*, 126, 145–153. <https://doi.org/10.1016/j.socscimed.2014.12.018>

Thus, jeopardizing access to WIC, as well as other crucial programs like Medicaid and SNAP, necessarily targets the most vulnerable families who count on these programs to provide the building blocks for a healthier life.

[Organization name] strongly urges DHS to withdraw the proposed rule, which would remove the current well-grounded regulations on public charge without replacing them. Most notably, this would leave voids where there are now clear guidelines about what programs can and cannot be considered in a public charge assessment, and that the use of benefits by family members not seeking adjustment will not be considered. This will create fear and uncertainty that will cause a “chilling effect”—the avoidance of applying for or receiving public benefits due to fear of jeopardizing their or their family member’s access to legal immigration status, even beyond what has been previously seen. As the NPRM itself indicates, the proposed rule will make the nation and its communities, including U.S. citizen children, sicker and poorer. We are particularly concerned about the possibility of immigrant families forgoing access to WIC, undermining their long-term health and well-being.

The proposed rule specifically recognizes harms that could “include worse health outcomes, such as increased prevalence of obesity and malnutrition (especially among pregnant or breastfeeding women, infants, and children), reduced prescription adherence, and increased use of emergency rooms for primary care due to delayed treatment.” For more than 50 years, WIC has demonstrated continued success in improving precisely these outcomes, providing young families with the resources to support the healthiest possible start to life. Moreover, Congress has rejected several opportunities to restrict WIC participation to US citizens, particularly throughout the 1996 reforms that resulted in the presently considered statutory public charge factors. The proposed rule explicitly ignores Congressional intent on this matter, jeopardizing the health and well-being of young families.

For the reasons detailed in the comments that follow, the Department should immediately withdraw its current proposal and instead dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families. This would leave the current regulations (as codified in the 2022 rule) in effect. If the Department decides to develop an alternative rule, such a rule must be open to full public notice and comment. Any guidance or tools that are created to direct officers’ decisions should also be made available for notice and comment because of their significant impact.⁸

The Department should immediately clarify that any changes in the policy, whether through regulation or guidance, will be only forward-looking, and that immigration officers will be directed not to consider any benefits received during a time when the stated policy of the United States was that use of such benefits would not have adverse immigration consequences. Such a clear statement was included in both the 2018 notice of proposed rulemaking⁹ and the 2019 final rule¹⁰, and its omission from this proposal is deeply alarming.

What the Proposed Rule Would Do

⁸ Administrative Conference of the United States. *Interpretive Rules of General Applicability and Statements of General Policy*. Recommendation 76-5. n.d. Accessed November 25, 2025. <https://www.acus.gov/sites/default/files/documents/76-5.pdf>.

⁹ Department of Homeland Security. *Inadmissibility on Public Charge Grounds*. October 10, 2018, 83 Federal Register 51114 (2018 NPRM). <https://www.federalregister.gov/d/2018-21106/p-1274>.

¹⁰ Department of Homeland Security. *Inadmissibility on Public Charge Grounds*. August 14, 2019, 84 Federal Register 41292 (2019 Final Rule). <https://www.federalregister.gov/d/2019-17142/p-627>.

The proposed rule would rescind the 2022 final rule on public charge as a ground of inadmissibility¹¹ (with the exception of limited language regarding public charge bonds) and does not offer any replacement language – leaving a regulatory void. Instead, DHS states that at some future date, after this rule is finalized, they will create new tools and guidance to direct United States Citizenship and Immigration Services (USCIS) officers in making public charge assessments.

While not providing any details on the new tools and guidance they plan to create, the proposed rule clearly signals that the Administration wishes to reinterpret the law, rejecting the long-standing precedent that an individual can be found likely to become a public charge only if they are likely to become “primarily dependent on the government for subsistence, as demonstrated by either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense.” This longstanding meaning of public charge, based on decades of case law and ratified by Congress, was written into the 1999 field guidance,¹² as well as the 2022 final rule. In contrast, the Administration’s NPRM reflects a much more exclusionary concept of public charge that would allow for denials for virtually any reason, including the use of supplementary benefits received by many workers, as well as a broader range of health conditions.

The NPRM would remove the clarity the current regulations provide concerning which public benefits can be considered in the public charge assessment. It suggests that the Administration proposes to consider any receipt of any type of means-tested benefits received or applied for by noncitizens at any time and for any duration, even on behalf of U.S. citizen or lawful permanent resident family members, as relevant to the public charge determination. The NPRM even states that the punitive rule adopted by the Trump Administration in 2019¹³ was not extreme enough because it would “straitjacket” officers making the public charge assessment by placing any limits on the receipt of which benefits could be considered.

Because the proposed rule does not define means-tested public benefits, and also uses a variety of other terms to describe the programs that will be considered, including “public benefit programs,” “public resources,” and “any type of public resources,” it maximizes confusion and fear. By purporting to remove the existing guardrails and refusing to provide any guidance on which benefits will or will not be considered, the Administration is creating fear and uncertainty among immigrants that will predictably discourage them from seeking benefits for which they are eligible. State and local governments, service providers, and community organizations will have no reliable basis for advising those who seek assistance.

The Notice of Proposed Rulemaking (NPRM) also seems to envision that the agency may expand scrutiny of individuals to include their family members. The rule removes the section that explicitly states that applying for or receiving benefits on behalf of family members is not considered “receipt.” This will have a significant chilling effect, reducing the use of benefits by

¹¹ Department of Homeland Security. *Public Charge Ground of Inadmissibility*. September 9, 2022, 87 Federal Register 55472 (2022 Final Rule).
<https://www.federalregister.gov/documents/2022/09/09/2022-18867/public-charge-ground-of-inadmissibility>.

¹² Department of Justice, *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, May 26, 1999, 64 Federal Register 28689 (Field Guidance).
<https://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds>.

¹³ 2019 Final Rule.

U.S. citizen and lawful permanent resident (LPR) children and pregnant people. This is especially of concern for WIC, where parents and caregivers receive benefits on behalf of participating children, providing them with the nutritious foods they need for the healthiest possible start to life.

This chilling effect of the proposed rule is both predictable and consequential. The result will be increased poverty, children going hungry or unsheltered, and delayed or foregone medical care, with lasting negative effects on their health and well-being. The rule would also harm the country's health care systems, schools, communities, and the broader economy. The proposed rule acknowledges these harms, while also understating their scope. It makes no case for the need to replace the current lawful and effective regulations, and certainly does not explain any benefits that would outweigh the widespread and devastating harms repealing them will cause.

The proposed rule provides no guidance regarding the benefits that will be considered.

By not providing any guidance on what benefits will– and will not– be considered in a public charge assessment, this rule will create fear and uncertainty among immigrants that will predictably discourage them and their families from accessing benefits for which they are eligible.

Throughout the NPRM, the Department uses multiple terms, none of which are defined, to describe the programs that USCIS officials will be allowed to consider in a public charge assessment. This inconsistency exacerbates the confusion and fear generated by the proposed rule. Each term the department uses has a different potential meaning. The regulatory language regarding bonds, the proposed revisions to Form I-485, and the paragraph with the clearest statement of what would happen if the proposed removal of 8 CFR 212.22 is finalized all use the term “means-tested public benefit.”¹⁴ Other terms used at various points in the proposed rule include “public benefits” (used 165 times), “public benefit programs” (used 12 times), and “public resources” (used 13 times). In one place, it simply says “DHS proposes to eliminate these definitions that limit the *benefits* that are considered as part of the public charge inadmissibility determination”¹⁵ (emphasis added). In another place, it says “the receipt of *any type of public benefits* by a qualified alien is relevant and indeed critical to determining whether an alien is actually self-sufficient”¹⁶ (emphasis added). Uncertainty about the Department's intentions is the only logical response.

There are a vast number of programs and services that an immigration official might decide fall under the heading of a “public benefit” or “public resource,” including many not limited to low-income people. It is beyond imagination that DHS intends that *all* of these benefits should count in the public charge determination. But the proposed rule does not provide any guidance on which programs would *not* be considered; indeed, it explicitly rejects the concept of doing so.

Without clear guidance, WIC providers, including those at [your organization name], would be unable to provide definitive reassurance to immigrants and their family members that these programs were safe to use. Refusing to articulate *which benefits* will count has both enormous chilling effects and leaves an excessive amount to the discretion of individual immigration officers, who are not experts in public benefits and can not reasonably be expected to understand the details of hundreds (or thousands) of programs. [If desired/ appropriate, reflect

¹⁴ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-365>.

¹⁵ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-327>.

¹⁶ 2025 NRPM <https://www.federalregister.gov/d/2025-20278/p-280>.

more here about your experience serving immigrant families and advising them on their eligibility for WIC, other public benefit programs]

Moreover, even if the Department provided a clear definition of means-tested benefits, it must justify its departure from the long-accepted “primarily dependent” standard for the consideration of any means-tested benefits. The proposed rule asserts that use of any benefit is relevant to a public charge assessment, but it neither provides a logical argument nor offers data to support this claim. A sense of the overreach of this statement rule is offered by an analysis of the 2018 proposed rule that found that more than half of all U.S.-born citizens could have been found at risk of becoming a public charge if the rule were applied to them. This is because the rule, like the proposed rule, allowed the consideration of supplemental benefits that are widely used by working individuals and their families.¹⁷ Indeed, in fiscal year 2024, 41 percent of children born in the United States— all U.S. citizens— were served by WIC.¹⁸

The proposed rule opens the door to the consideration of benefits used by family members.

The proposed rule appears to leave room for officers to consider benefits used by family members who are not seeking to adjust their status. The rule removes the regulatory definition of “receipt (of public benefits)” (8 CFR Part 212.21(d)) that explicitly states that applying for or receiving benefits on behalf of family members is not considered “receipt.” It also fails to provide such reassurance in the preamble, as the 2019 final rule did.¹⁹

In fiscal year 2024, more than 5 million children participated in WIC, with parents or caregivers applying for WIC benefits on their behalf. Without clarity on the application and receipt of benefits by family members, children of non-citizen parents may be forced to forgo WIC’s vital nutrition support, leading to worse long-term health and development outcomes. [If desired/ appropriate, reflect more here on your experience serving immigrant parents with US citizen children and how they would be harmed by this provision.]

Without that clear language, it is impossible for immigrants to know whether use of benefits by family members – including U.S. citizen children – will harm them when they seek to obtain LPR status, or for providers to offer them meaningful reassurance. Moreover, the affirmative choice to remove this clear statement from the regulations sends a message that is far stronger than if such exclusion had never been part of the regulations. The NPRM provides no justification for this removal.

The proposed rule improperly centers the subjective opinion of immigration officers.

The proposed rule seeks to provide immigration officers with unbounded discretion to determine which factors are relevant in making the public charge assessment. The NPRM goes so far as to state that such discretion is “the primary source of unquantified benefits of this proposed

¹⁷ Danilo Trisi, *Trump Administration’s Overbroad Public Charge Definition Could Deny Those Without Substantial Means a Chance to Come to or Stay in the U.S.* Center on Budget and Policy Priorities, 2019. <https://www.cbpp.org/sites/default/files/atoms/files/5-30-19pov.pdf>.

¹⁸ *WIC Program Overview*, United States Department of Agriculture, Economic Research Service, 2025. <https://www.ers.usda.gov/topics/food-nutrition-assistance/wic-program>

¹⁹ 2019 Final Rule: <https://www.federalregister.gov/d/2019-17142/p-499>. Of note, the 2019 final rule discussed this reassurance in the context of arguing that the rule could not be considered to discriminate against certain citizen children on the basis of their parents’ nationality, as their receipt of benefits would not be considered in the public charge assessment.

rule.”²⁰ As discussed above, this is an inaccurate reading of the Immigration and Nationality Act (INA), which leaves the public charge assessment to the “opinion of the Attorney General at the time of application for admission or adjustment of status...”²¹ Without guidance, immigration officers, who are not experts in public benefits, will have to decide which of hundreds of benefits (including state and local benefits) are relevant.

Such discretion creates the opportunity for bias to influence decisions. The proposed rule fails to make any case for why the unfettered discretion of immigration officers is so essential as to justify the high risk of discrimination affecting public charge assessments. Moreover, the proposed rule would remove the requirement contained in the current regulations that USCIS officers include in their denial of admission a specific articulation of the reasons for the determination and the factors that were considered. The 2022 final rule explained that articulation of the reasons “will help ensure that public charge inadmissibility determinations will be fair, transparent, and consistent with the law.”²²

The chilling effect of the proposed rule would cause significant and permanent harm

The chilling effect of this change will be significant and deeply harmful. This is a logical prediction, based on both historical evidence and what reasonable people would do given the lack of certainty and hostile indications provided by the current proposal.

Changes in the behavior of immigrant families, the 2019 Trump public charge rule provides evidence of chilling effects. Migration Policy Institute (MPI) researchers using American Community Survey (ACS) data found that participation in cash assistance under TANF, food assistance under SNAP, and health coverage under Medicaid declined far more rapidly for noncitizens than for U.S.-born citizens between 2016 and 2019. The share of children receiving benefits fell about twice as fast for all of these programs among U.S. citizen children who live in households with noncitizen household members as it did among children with only citizens in their households, almost as much as participation by non-citizens themselves.²³ The participation decline accelerated between 2018 and 2019.

The declines in SNAP and TANF participation were much larger than the declines in Medicaid use, consistent with other research that has found that immigrant parents were more likely to apply for Medicaid than for SNAP, because they could identify other “coping strategies” to acquire food, but that Medicaid was “irreplaceable” as a gateway to medical care.²⁴

Researchers in another study used the variation in the noncitizen share of the population across counties to estimate the effects of the announcement of the 2018 proposed rule—even before it was adopted—on the share of children enrolled in Medicaid, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and SNAP. They found that the announcement was associated with a decrease nationwide of approximately 260,000 in child

²⁰ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-114>.

²¹ 8 U.S.C. § 1182(a)(4)(A).

²² 2022 Final Rule: <https://www.federalregister.gov/d/2022-18867/p-1358>.

²³ Jeanne Batalova, Randy Capps, Michael Fix, *Anticipated ‘Chilling Effects’ of the Public-Charge Rule Are Real: Census Data Reflect Steep Decline in Benefits Use by Immigrant Families*, Migration Policy Institute, December 21, 2020.

<https://www.migrationpolicy.org/news/anticipated-chilling-effects-public-charge-rule-are-real>.

²⁴ *Food Over Fear: Overcoming Barriers to Connect Latinx Immigrant Families to Federal Nutrition and Food Programs*. Food Research & Action Center and the National Immigration Law Center. <https://frac.org/research/resource-library/nilc-latinximmigrantfamilies>.

Medicaid enrollment, of 149,000 in child SNAP enrollment, and 21,000 in child WIC enrollment.²⁵

SNAP administrative data found that the number of children in mixed-status households receiving SNAP benefits dropped by 22.5 percent – more than 718,000 children – from 2017 to 2018. The rate of decrease was five times the rate of the decrease among U.S. children in citizen-only households.²⁶ This decline also shows up in the USDA's estimates of the participation rate for eligible citizen children in households with noncitizen adults, which fell from 80 percent in 2016 to 64 percent in the first months of 2020 (pre-pandemic). The participation rate of eligible non-citizens fell in the same time period from 66 percent to 52 percent.²⁷

A study using New York State Medicaid data from 2014-2019 found that the initial leak of the public charge rule in 2017 resulted in significant delays in prenatal Medicaid enrollment among immigrant women and a significant decrease in birth weight among their newborn babies.²⁸ Following the 2017 leaked draft of the public charge rule, WIC staff across the country reported staggering numbers of women terminating their WIC participation, including for their U.S. citizen children. Many families chose to forgo vital nutrition assistance, education, and breastfeeding support out of the fear of consequences to their legal status. This alarming trend persisted even when the proposed rule was unveiled without any consequences to an applicant's legal status for participating in WIC. [If desired/ appropriate, reflect more here on your experience serving families during the 2017-2019 public charge changes. In particular, include specific (anonymized) stories about the experience of participants, as well as any metrics related to changing participation at your clinic/ agency.]

The chilling effect of the new proposed rule is likely to be even greater today because of fears in immigrant communities due to the extensive threats they are experiencing. These different fears reinforce each other. Research has found that experience with immigration enforcement increases noncitizens' concerns about public charge. Specifically, having stayed inside to avoid police or immigration officials, having been asked to show proof of citizenship by law enforcement, and knowing someone who has been deported were all found to increase concerns about accessing public benefits related to public charge.²⁹

These are all increasingly common experiences today. In KFF's fall 2025 survey, 22% of immigrants said that they personally knew someone who has been arrested, detained or deported on immigration related charges since January, nearly three times as many as in April.

²⁵ Jeremy Barofsky, Dinardo Rodriguez, and Anthony Barrows, "Spreading Fear: The Announcement of the Public Charge Rule Reduced Enrollment In Child Safety-Net Programs." *Health Affairs*, October 2020. <https://doi.org/10.1377/hlthaff.2020.00763>.

²⁶ Alexandra Ashbrook, *New Data Reveal Stark Decreases in SNAP Participation Among U.S. Citizen Children Living With a Non-Citizen*, Food Research & Action the Center, 2021.

²⁷ Alma Vigil, *Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2016 to Fiscal Year 2020*, Table 2, USDA, December 2022. <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-trends-fy2016-2020.pdf>

²⁸ Scarlett Sijia Wang, Sherry Glied, Claudia Babcock, and Ajay Chaudry, "Changes in the Public Charge Rule and Health of Mothers and Infants Enrolled in New York State's Medicaid Program, 2014–2019." *American Journal of Public Health* 112, no. 12 (2022): 1747–56. <https://doi.org/10.2105/AJPH.2022.307066>.

²⁹ Lei Chen, Maria-Elena De Trinidad Young, Michael A. Rodriguez, and Kathryn Kietzman. "Immigrants' Enforcement Experiences and Concern about Accessing Public Benefits or Services." *Journal of Immigrant and Minority Health* 25, no. 5 (2023): 1077–84. <https://doi.org/10.1007/s10903-023-01460-x>.

Three in ten reported that they or a family member have limited their participation in activities outside the home since January due to concerns about drawing attention to someone's immigration status.³⁰ [If desired/ appropriate, reflect more here on your experience serving immigrant and mixed status families since January 2025/]

The Department's estimates of the impact of the rule dramatically understate the harm.

The proposed rule includes an economic impact analysis, which predicts that approximately 447,000 people will disenroll or forgo enrollment in SNAP, 364,000 in Medicaid, 64,000 in Supplemental Security Income (SSI), 59,000 in CHIP, and 16,000 in cash assistance under Temporary Assistance for Needy Families (TANF).³¹ However, as harmful as this impact would be, it is likely a significant understatement of the harm.

The Department's primary estimates of the chilling effect are based on a 10.3 percent chilling effect. This is not based on any specific estimate of chilling effect but is rather the mathematical midpoint between a 3.3 percent estimate that is based on the share of all noncitizens who adjust status each year (e.g. assumes no chilling effect on anyone who is not adjusting in that calendar year) and a 17.3 percent estimate that purports to be derived from the Urban Institute and KFF studies.³² However, the Department does not show its math for this calculation, which appears to include results for all-citizen immigrant households. Moreover, this combines results from the period when the 2019 rule was in effect and from the period when the 2022 rule was in effect. Based on the studies cited above, disenrollment rates from 10 to 30 percent are more plausible, with 20 percent as a midpoint estimate. These are the rates used in a new KFF estimate of the chilling effect on Medicaid and CHIP.³³

Moreover, as the KFF analysis points out, the Department's estimate of the population to which this chilling rate should be applied is demonstrably too low. DHS estimates that 3.5 million Medicaid enrollees and 570,000 CHIP enrollees lived in a household with at least one person who is not a citizen.³⁴ KFF's analysis of American Community Survey data finds that there are actually about 13.4 million Medicaid or CHIP enrollees living in a household with at least one noncitizen. In addition, there are nearly 1.8 million uninsured individuals in a household with at least one noncitizen who are eligible for Medicaid or CHIP but not enrolled, and could be deterred from applying.³⁵

Much of the impact will fall on children and pregnant people.

One in four children in the U.S. – 19 million children – have at least one immigrant (non U.S.-born) parent. The majority of these children are U.S. citizens, either in mixed-immigration

³⁰ Pillai et al. op cit.

³¹ 2025 Final Rule, Table VI.10, <https://www.federalregister.gov/d/2025-20278/page-52214>

³² 2025 Final Rule, <https://www.federalregister.gov/d/2025-20278/p-480>

³³ Samantha Artiga, Drishti Pillai, Sammy Cervantes, Akash Pillai and Matthew Raie, *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF, 2025. <https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>

³⁴ 2025 Final Rule, Table VI.10, <https://www.federalregister.gov/d/2025-20278/page-52214>

³⁵ Artiga et al, op cit. (Samantha Artiga, Drishti Pillai, Sammy Cervantes, Akash Pillai and Matthew Rae, *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF, 2025. <https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>)

status households (with noncitizen parents) or with naturalized citizen parents. Only about three percent of children in the U.S. are themselves noncitizens.³⁶

Children in immigrant families are more likely to face certain hardships, and are already less likely to access help due in part to flawed policies that create barriers to immigrant families' ability to access critical public benefits.³⁷ Given the restrictions on immigrants' eligibility for public benefits, much of the impact of the chilling effect will fall on U.S. citizen children in immigrant families. For example, the KFF analysis cited above finds that somewhat under half of the Medicaid or CHIP enrollees who live in a household with at least one noncitizen – 5.9 million out of 13.4 million – are U.S. citizen children.³⁸

The proposed rule would change the lives not only of children, but of countless families across the United States. These children do not live in isolation. They will grow up and live in communities where their individual success is critical to the strength of the country's future workforce and our collective economic security. It is important to America's future to do everything we can as a nation to ensure that these children succeed – and at the very least, stop putting their healthy development and education at risk by destabilizing their families. Forcing parents to choose between their own immigration status—or the ability to reunite their family in the future—and their children's access to these benefits is short-sighted and will harm all of U.S. society.

Benefits access, including access to WIC, produces documented positive outcomes, especially for children.

The chilling effect of public charge will only worsen hunger, unmet health care needs, health outcomes, poverty, homelessness, and other serious problems. Congress has acted to create wide-ranging eligibility for WIC – including among non-citizen mothers – because its targeted, time-limited assistance has an immeasurable impact on the development and health of both the child and mother. Congress specifically noted that “[t]he preventative aspects of the WIC program are among its strongest virtues.”³⁹ Indeed, a wide body of research validates the role that WIC plays in ensuring healthy pregnancies and birth outcomes, ameliorating nutritional deficits in infants, and promoting positive health outcomes for young children. WIC aims to reach eligible women as early as possible, in order to maximize the program's impact on the pregnancy.⁴⁰

³⁶ Drishti Pillai, Akash Pillai, and Samantha Artiga. *Children of Immigrants: Key Facts on Health Coverage and Care*. KFF, 2025.

<https://www.kff.org/racial-equity-and-health-policy/children-of-immigrants-key-facts-on-health-coverage-and-care/>.

³⁷ Tanya Broder and Gabrielle Lessard *Overview of Immigrant Eligibility for Federal Programs*, National Immigration Law Center, 2024,

<https://www.nilc.org/wp-content/uploads/2024/05/overview-immeligfedprograms-2024-05-08.pdf> ; Kinsey Alden Dinan, *Federal Policies Restrict Immigrant Children's Access to Key Public Benefits*, National Center for Children in Poverty, 2005. http://www.nccp.org/publications/pdf/text_638.pdf.

³⁸ Artiga et al, op cit. (Samantha Artiga, Drishti Pillai, Sammy Cervantes, Akash Pillai and Matthew Raie, *Potential “Chilling Effects” of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF, 2025.

<https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>

³⁹ 124 Cong. Rec. S11467 (daily ed. July 21, 1978) (statement of Sen. McGovern).

⁴⁰ Cong. Rec. S11467 (daily ed. July 21, 1978) (statement of Sen. McGovern). 56 See 7 C.F.R. § 246.7(e)(1)(v) (permitting temporary waiver of nutritional risk evaluation for pregnant women as a

Longer participation in WIC throughout the pregnancy is associated with lower risk of preterm birth and a greater chance of preventing low- or very low-birth-weight.⁴¹ These birth complications can result in long-term and serious health conditions, including: chronic conditions like diabetes, heart disease, and high blood pressure; neurological disorders like cerebral palsy; breathing problems like asthma, bronchopulmonary dysplasia (BDP), and respiratory distress syndrome (RDS); bleeding in the brain (intraventricular hemorrhage); intestinal problems, like necrotizing enter colitis (NEC); vision problems, like retinopathy of prematurity (ROP); hearing loss; jaundice; and other conditions.⁴² Accordingly, WIC's effective intervention has a key role to play in promoting healthier birth outcomes and preventing serious health conditions by supporting the healthy development of infants both in utero and after birth.

In addition to these health complications, low-birthweight babies are also more likely to die in the first year of life.⁴³ Approximately 20,000 infants still die each year in the United States, an unconscionably high number for a nation with such abundant resources.⁴⁴ WIC's intervention plays a significant role in reducing perinatal and infant mortality by ensuring adequate nutrition and healthy development in pregnancy and the first few weeks of life.⁴⁵ This intervention can reduce the likelihood of Sudden Infant Death Syndrome (SIDS) or other potentially fatal health complications throughout the infant period. Decreased non-citizen participation in WIC will lead to more children – U.S. citizen children – being at risk of preventable poor birth outcomes that could result in infant death.

In addition to supporting healthy births, WIC takes active measures to promote and facilitate breastfeeding. Evidence has been building over the last several decades demonstrating the strong positive health impacts of breastfeeding for both mother and baby. Breastfeeding is associated with decreased risk of type-2 diabetes,⁴⁶ lower rates of pediatric overweight or obesity,⁴⁷ and reduced risk of other chronic diseases such as cardiovascular disease, hypertension, and some forms of cancer.⁴⁸ Breastfeeding is also positively correlated with

requirement of certification, to permit presumptive eligibility and immediate certification).

⁴¹Kathryn Fingar, et al., "Reassessing the Association between WIC and Birth Outcomes Using a Fetuses-at-Risk Approach," 21 *J. Maternal and Child Health* 825 (2017); Ralitza Gueorgieva, et al., "Length of prenatal participation in WIC and risk of delivering a small-for-gestational-age infant: Florida, 1996-2004," 13 *J. of Maternal Child Health* 479 (2009); Marianne Bitler & Janet Currie, "Does WIC Work? The Effects of WIC on Pregnancy and Birth Outcomes," 1 *J. of Policy Analysis & Mgmt.* 73 (2005).

⁴² See March of Dimes, "Long-term Health Effects of Premature Birth" (Oct. 2013), <https://www.marchofdimes.org/complications/long-term-health-effects-of-premature-birth.aspx>; March of Dimes, "Low Birthweight" (Mar. 2018), <https://www.marchofdimes.org/complications/low-birthweight.aspx>.

⁴³ Lehman Black, et al., "Effects of birth weight and ethnicity on incidence of sudden infant death syndrome," 108 *J. of Pediatrics* 209 (Feb. 1986).

⁴⁴ Ely DM, Driscoll AK. Infant mortality in the United States, 2022: Data from the period linked birth/ infant death file. National Vital Statistics Reports; vol 73 no 5. Hyattsville, MD: National Center for Health Statistics. 2024. DOI: <https://dx.doi.org/10.15620/cdc/157006>.

⁴⁵ Kathryn Fingar, et al., "Reassessing the Association between WIC and Birth Outcomes Using a Fetuses-at-Risk Approach," 21 *J. Maternal and Child Health* 825 (2017).

⁴⁶ Bernardo Horta, et al., "Long-term consequences of breastfeeding on cholesterol, obesity, systolic blood pressure, and type 2 diabetes: a systematic review and meta-analysis," 104 *Acta Paediatrica* 30 (2015).

⁴⁷ Laurence Grummer-Strawn & Zuguo Mei, "Does Breastfeeding Protect Against Pediatric Overweight? Analysis of Longitudinal Data From the Centers for Disease Control and Prevention Pediatric Nutrition Surveillance System," 113 *Pediatrics* 81 (2004).

⁴⁸ Colin Binns, et al., "The Long-Term Public Health Benefits of Breastfeeding," 28 *Asia Pacific J. of Public Health* 7 (Jan. 2016).

cognitive development.⁴⁹ WIC promotes and supports breastfeeding in a number of key ways, including providing educational materials, one-on-one consultations with peer and professional staff, group classes and support groups, and 24/7 hotlines for questions.

Likewise, WIC's nutritious food package improves early childhood eating habits, providing access to healthy foods like whole grains and vegetables. Research highlights WIC's vital role in child nutrition by ensuring infants and young children receive essential nutrients like iron, calcium, and vitamins A and C, critical for growth and development.^{50 51} WIC participants also show lower rates of iron deficiency anemia and healthier growth,⁵² demonstrating the program's impact on reducing nutritional deficiencies. The Cash Value Benefit (CVB) for fruits and vegetables, which has now been permanently updated to better align with dietary recommendations, increases access to produce, leading to a quarter-cup per day increase in fruit and vegetable consumption.⁵³ Taken together, WIC's targeted and time-limited intervention is a powerful investment in the future of each individual WIC child, regardless of the immigration status of their parents.

[Add any metrics your clinic/ agency collects on participation and health outcomes, as well as any specific (anonymized) participant stories about the positive health impacts of WIC participation that you'd like to share]

Chilling effects are predictable and DHS is obligated to minimize them.

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits.⁵⁴ The proposed rule fails to meet these requirements.

The Department is well aware of the chilling effect of the public charge rules. As explained in the preamble to the 2022 final rule:

⁴⁹ *Id.*

⁵⁰ Au, L. E., Paolicelli, C., Gurzo, K., Ritchie, L. D., Weinfield, N. S., Plank, K. R., & Whaley, S. E. (2019). Contribution of WIC-Eligible Foods to the Overall Diet of 13- and 24-Month-Old Toddlers in the WIC Infant and Toddler Feeding Practices Study-2. *Journal of the Academy of Nutrition and Dietetics*, 119(3), 435–448. <https://doi.org/10.1016/j.jand.2018.11.00>

⁵¹ Shinyoung, J., Catellier, D. J., Eldridge, A. L., Dwyer, J. T., Eicher-Miller, H. A., & Bailey, R. L. (2018). Usual Nutrient Intakes from the Diets of US Children by WIC Participation and Income: Findings from the Feeding Infants and Toddlers Study (FITS) 2016. *The Journal of Nutrition*, 148, 1567S-1574S. <https://doi.org/10.1093/jn/nxy059>

⁵² Sanjeevi, N, Feeland-Graves, J. (2022). The Special Supplemental Nutrition Program for Women, Infants, and Children food package revisions and anemia in children aged 2–5 years. *The American Journal of Clinical Nutrition*, 116(4), 1030-1037. <https://doi.org/10.1093/ajcn/nqac141>

⁵³ Lorrene Ritchie, Danielle Lee, Celeste Felix, Linnea Sallack, Christina Chauvenet, Georgia Machell, & Shannon E. Whaley. (2022). Multi-State WIC Participant Satisfaction Survey: Cash Value Benefit Increase During COVID. National WIC Association, Nutrition Policy Institute, University of California Division of Agriculture and Natural Resources. <https://media.nwica.org/nwa-multi-state-cvb-report-march-2022.pdf>

⁵⁴ *Improving Regulation and Regulatory Review*, Executive Order 13563, January 21, 2011. <https://www.federalregister.gov/documents/2011/01/21/2011-1385/improving-regulation-and-regulatory-review>.

“The 2019 Final Rule was associated with widespread indirect effects, primarily with respect to those who were not subject to the 2019 Final Rule in the first place, such as U.S.-citizen children in mixed-status households, longtime lawful permanent residents who are only subject to the public charge ground of inadmissibility in limited circumstances, and noncitizens in a humanitarian status who would be exempt from the public charge ground of inadmissibility in the context of adjustment of status.”⁵⁵

Indeed, these chilling effects are recognized in the current proposed rule, in the discussion of likely costs of the rule. Specifically, DHS acknowledges that “elimination of certain definitions may lead to public confusion or misunderstanding of the proposed rule, which could result in decreased participation in public benefit programs by individuals who are not subject to the public charge ground of inadmissibility.”⁵⁶

The proposed rule specifically recognizes harms that could “include:

- Worse health outcomes, such as increased prevalence of obesity and malnutrition (especially among pregnant or breastfeeding women, infants, and children), reduced prescription adherence, and increased use of emergency rooms for primary care due to delayed treatment.
- Higher prevalence of communicable diseases, including among U.S. citizens who are not vaccinated.
- Increased rates of uncompensated care, where treatments or services are not paid for by insurers or patients.
- Increased poverty, housing instability, reduced productivity, and lower educational attainment.”⁵⁷

As well as additional harms, including:

- “Lower revenues for healthcare providers participating in Medicaid.
- Reduced income for companies manufacturing medical supplies or pharmaceuticals.
- Decreased sales for grocery retailers participating in SNAP.
- Economic impacts on agricultural producers supplying SNAP-eligible foods.
- Financial strain on landlords participating in federally funded housing programs.”⁵⁸

At the same time, DHS maintains that this is not the “intent” of the regulation and therefore suggests that it has no obligation to minimize these harms. Similarly, in the 2019 final rule, DHS acknowledged the likely chilling effect of the policy on groups not subject to a public charge determination, but stated that disenrolling or forgoing enrollment would be “unwarranted” and therefore “DHS will not alter this rule to account for such unwarranted choices.”⁵⁹

Given the great uncertainty created by the proposed rule about which benefits are safe to use, and whether family members’ use of benefits can be held against an applicant for status, families are likely to take a cautious view and avoid using benefits that could possibly count against them. Such a choice cannot reasonably be described as “irrational,” “unpredictable,” or “unwarranted.” Therefore, the Department must take the likelihood of such choices into account.

⁵⁵ 2022 Final Rule: <https://www.federalregister.gov/d/2022-18867/p-1414>.

⁵⁶ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-453>.

⁵⁷ 2025 NPRM <https://www.federalregister.gov/d/2025-20278/p-523>.

⁵⁸ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-529>.

⁵⁹ 2019 Final Rule: <https://www.federalregister.gov/d/2019-1712/p-535>.

Even if deterring immigrants and their families from benefits is not the intent, the Department is required to show that it cannot achieve the goal of implementing its statutory requirements in an alternative way that causes less harm. The proposed rule makes no attempt to do so.

Conclusion

For all the foregoing reasons, the Department should immediately withdraw its current proposal and instead dedicate its efforts to advancing policies consistent with statute and case law that strengthen—rather than undermine—the ability of immigrants to support themselves and their families.

Our comments include numerous citations to supporting research and relevant documents, including direct links for the benefit of the Department in reviewing our comments. We direct the Department to each of the studies or documents cited and made available to the agency through active hyperlinks, and we request that the full text of each of the items cited, along with the full text of our comments, be considered part of the administrative record in this matter for purposes of the Administrative Procedure Act.

Thank you for the opportunity to comment on this regulation.