



advocacy | action | answers on aging

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December 10, 2018

Samantha Deshombres
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 electronically via <http://www.regulations.gov>.

RE: DHS Docket No. USCIS-2010-0012, RIN 1612-AA22, Comments in
Response to Proposed Rulemaking: Inadmissibility on Public Charge
Grounds

Dear Chief Deshombres:

On behalf of the National Association of Area Agencies on Aging (n4a), which represents the country's 622 Area Agencies on Aging (AAAs) and serves as a voice in the nation's capital for the more than 250 Title VI Native American aging programs, we are writing in response to the recently proposed rule from the Department of Homeland Security (DHS) to expand the public charge test. n4a is strongly opposed to DHS's proposal, which we believe unfairly targets older adults, their families and their caregivers.

Established under the Older Americans Act (OAA) as part of a nationwide Aging Network, AAAs are charged with local planning, development and service delivery infrastructure to respond to the home and community-based services (HCBS) needs of adults age 60 and over—and their caregivers—in every community in the country. In this position, our members are on the frontline of a historic demographic shift as 10,000 people turn 65 each day. This demographic reality includes a growing population of immigrant older adults and their caregivers who will be harmed if DHS implements the proposed changes to the public charge determination test.

Expansion Would Put Older Adults at Particular Risk

The Department of Homeland Security proposal would dramatically expand the public charge definition to include immigrants who receive one or more public benefits, including modest use of vital programs such as Medicaid, housing assistance, the Supplemental Nutrition Assistance Program (SNAP), and help paying for prescription drugs under Medicare. Currently, only those immigrants who rely upon cash assistance (such as TANF, etc.)

may be determined to be a public charge, and denied legal permanent residency and potentially a path to citizenship. This long-standing definition has been in effect for nearly 20 years.

n4a believes that if expanded as proposed, the public charge definition would hurt millions of older adults and caregivers in immigrant families. If enacted, older adults and their families could be forced to make impossible choices between obtaining permanent legal status in the U.S. and meeting their basic needs, keeping families together or caring for aging parents. We must not put access to vital programs at risk or discourage enrollment in public benefits that keep older adults and caregivers healthy, independent and safe in their homes and together with their families.

The rule is likely to also increase confusion and fear among *all* legal immigrant families, resulting in a chilling effect, where older adults stop seeking benefit programs they need—including programs such as those under the Older Americans Act, which is not included in the proposal—for fear of how utilizing them may affect their families. AAAs and other Aging Network stakeholders across the country serve as the community connection to those services for older adults and their caregivers—including those identified under the proposed changes—and n4a members have already reported instances of confusion and fear about what these changes could mean for legal immigrant older adults and their families.

The proposed changes to the public charge test would also unfairly weigh age, ability, health and financial status in determining whether a person is likely to use certain public benefits in the future. The proposed rule is discriminatory toward adults and their caregivers who are older than 61; those that have physical or mental conditions that affect their ability to care for themselves, which is more common among older populations; and those who earn less than 125 percent of the Federal Poverty Level (FPL). According to one estimate, nearly 75 percent of people age 62 and older seeking legal permanent residence would have two or more of the proposed negative factors count against them—meaning that older adults would be at greater risk of being denied green cards.¹

Expansion Undermines Caregiving Workforce

In addition to putting older adults at risk of losing permanent legal status or choosing to forgo essential services that support health and independence as they age, the proposed rule undermines the ability of caregivers to provide critical support to family members. If enacted, changes to the public charge determination test would affect American citizens' ability to petition for their parents to join them in the U.S., which currently comprises nearly one in six of all admissions to the U.S. and 30 percent of family-based admissions.² These percentages will only increase as the population continues aging. Furthermore, under the proposed rule, families could be penalized for sharing housing or providing support to a parent or grandparent, as this would force families to demonstrate higher income to avoid public charge classification. As written, the proposed rule undermines the very fabric of a society that depends on family caregivers to provide services and supports to older adults.

In addition to undermining the vital role of family caregivers, the proposed rule threatens the well-being of millions of older Americans who rely on direct-care workers to remain independent in their

¹ Migration Policy Institute, *Gauging the Impact of DHS's Proposed Public Charge Rule on U.S. Immigration* (Nov. 2018), retrieved from: file:///C:/Users/acampbell/Downloads/MPI-PublicChargeImmigrationImpact_FinalWeb.pdf

² Dept. of Homeland Security, *Office of Immigration Statistics, 2017 Yearbook of Immigration Statistics*, Table 7, retrieved from: <https://www.dhs.gov/immigration-statistics/yearbook/2017/table7>.

homes and communities. According to data from PHI³, one in four direct-care workers are immigrants. These workers are a critical component of the U.S. caregiving workforce, providing care for a population of older Americans that is growing faster than at any other time in history. In fact, our nation will need more direct care workers as our population continues to age, and n4a supports policies to ensure that this workforce expands to meet that rising need. The average annual wage for this in-demand work is approximately \$15,000, which is below the proposed rule's adjusted income threshold—meaning that hard-working members of a vital workforce could be subject to public charge determinations. Additionally, because of inadequate wages for this workforce, over half of all direct-care workers rely on public benefits, including Medicaid and SNAP, to support their basic needs—another factor that would be unfavorably weighed against them, according to the proposed rule. n4a believes we should not make it harder to maintain and grow this essential workforce, and yet the proposed rule does just that.

Conclusion

n4a appreciates the opportunity to comment on the DHS proposal, but for the reasons highlighted above, we strongly encourage DHS to withdraw this proposal. On behalf of AAAs and Title VI aging programs nationwide who serve older adults and caregivers in every community and from every background, we believe that the proposed rule is an ill-conceived, harmful proposal that will have dire consequences for millions of older adults and their families. As our country is faces an unprecedented demographic shift, now is the time to invest in, rather than undermine access to, critical services and supports that promote health, independence and dignity among older adults in every community.

Sincerely,

A handwritten signature in black ink that reads "Sandy Markwood". The signature is written in a cursive, flowing style with a long horizontal tail on the right side.

Sandy Markwood
Chief Executive Officer

³ PHI, <https://phinational.org/>