



December 5, 2018

Via Electronic Submission

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

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

Dear Chief Deshommès:

We are writing on behalf of the Colorado All Kids Covered Initiative to express our strong opposition to DHS Docket No. USCIS-2010-0012, “Inadmissibility on Public Charge Grounds” (hereinafter referred to as “the proposed rule”) published to the Federal Register on October 10, 2018.

The proposed rule is a sweeping and radical change from current law that would harm the health of Colorado’s children, undermine years of progress Colorado has made in making sure 97% of all eligible kids have health coverage¹, and would create conflict with bipartisan state policies enacted by the state legislature. The proposed rule would increase poverty for children and families, and cause more than 143,000 Colorado kids to lose access to health care, nutrition, and housing programs that they are eligible for.² We urge you to withdraw this proposed rule in its entirety because it will have negative consequences on family stability, health, and wellness.

The Colorado All Kids Covered Initiative has for more than a decade led the work to increase and improve health insurance coverage for Colorado’s children through a Coalition of over 100 members. Coalition members include provider groups, advocates, direct service providers, and others. The Coalition’s mission is improving the wellbeing of Colorado’s children through health care coverage. We do our work by engaging a broad range of advocates and fighting for legislative and regulatory policy change. The Coalition successfully fought for the establishment of the Children’s Health Insurance Program in Colorado (called Child Health Plan *Plus* or CHP+), ongoing expansions of eligibility for children and pregnant women in CHP+ and

¹ Colorado Health Institute (2018). “Colorado’s Eligible but Not Enrolled Population Holding Steady.” Retrieved from <https://www.coloradohealthinstitute.org/research/colorados-eligible-not-enrolled>

² Colorado Fiscal Institute (2018). “Only Wealthy Immigrant Need Apply” How the Trump Rule Will Harm Colorado. Retrieved from: <https://bit.ly/2D1YqK9>

Medicaid, and establishment of child-only health plans on the insurance Marketplace. We measure our success by the historically low percentage of uninsured children in Colorado. We also have contributed to decreasing inequities in coverage among children of different racial groups, especially black children, though disparities in coverage rates, especially among Hispanic children, remain.

Because of our long history working on behalf of children in the state of Colorado, and the evidence which shows that children who have coverage are better prepared to live longer, more productive lives, we wish to respond to several elements in the proposed rule that highlight the damage the proposed rule would have on the health of Colorado's children.

Conflict with Bipartisan State Law

The Colorado legislature approved a bipartisan bill in 2009 that instructed the state to take up the option that the Centers for Medicare & Medicaid Services offered to states through the Children's Health Insurance Program Reauthorization Act (CHIPRA). The state option allows states to cover lawfully residing children and pregnant women who meet income eligibility criteria for Medicaid and the Children's Health Insurance Program (CHIP), including those within their first five years of having certain legal status.³ In addition to Colorado, 32 other states have taken up this provision for children, and 24 states have taken it up for pregnant women.⁴ The pregnant women and children benefiting from this coverage – who are currently residing in the U.S. lawfully and are eligible for public benefits – would need to disenroll from Medicaid to avoid the use of these benefits counting against any potential future applications to adjust their immigration status.

We are concerned by this because pregnant women – who by definition of being eligible for Medicaid are lawfully present -- will be less likely to seek prenatal care, resulting in more U.S. citizen children born with poor health. Prenatal care is proven to reduce negative health outcomes including reducing the risk of pregnancy complications, reducing the fetus' and infant's risk for complications, decreasing risks associated with prenatal alcohol exposure and tobacco smoke, and reducing the risk of neural tube defects, among other health benefits to both the mother and child.⁵

Additionally, as proposed, if a parent did choose to keep their lawfully residing child(ren) enrolled in Medicaid – a choice that benefits the health of the child and the community – the child may have that enrollment counted against them at a later date if they ever applied to adjust to a permanent status. Holding a child's use of Medicaid against them as they grow older is unreasonable and unjust. Cautious parents who do not wish to negatively impact their children's chances of permanent residency are more likely to avoid Medicaid coverage for their children. This means these children will have poorer health outcomes, and will be less likely to grow up and make a positive economic impact on (contribution to) their communities.

³ Medicaid.gov (2016) Medicaid and CHIP Coverage for Lawfully Residing Children and Pregnant Women. Retrieved from: <https://www.medicaid.gov/medicaid/outreach-and-enrollment/lawfully-residing/index.html>

⁴ Kaiser Family Foundation (2018). Medicaid and CHIP Eligibility, Enrollment, Renewal, and Cost Sharing Policies as of January 2018: Findings from a 50-state Survey. Retrieved from <https://cf.georgetown.edu/wp-content/uploads/2018/03/2018-Medicaid-and-CHIP-Eligibility-Enrollment-Renewal-and-Cost-Sharing-Policies-as-of-January-2018-1.pdf>

⁵ U.S. Department of Health and Human Services, National Institutes of Health. (2017). What is Prenatal Care and why is it important? <https://www.nichd.nih.gov/health/topics/pregnancy/conditioninfo/prenatal-care>

Excessive Administrative Burden on States

The proposed rule will impose tremendous administrative burdens on states, including Colorado. In addition to being in conflict with state law in Colorado and many other states (mentioned above), the proposed rule also calls for immigration officials to count the number of months an applicant has used public benefits. There are no current state technology systems that would allow immigration officials to have access to that information. This would require the state to divert funds from other priorities, including health services, to make changes to eligibility systems and create reporting mechanisms to immigration officials. In addition to excessive costs associated with such systems changes, Colorado would also be put into a legal bind, as federal privacy laws block agencies that administer public benefits from sharing client information with other federal agencies. Counties that administer public benefit programs in Colorado would also face an increased administrative burden.

New income test is unreasonable

The proposed rule adds new factors and a weighting system into the public charge test. These additions unfairly target and impose disproportionate harm on young, low-income, and disabled children and their families.

Eligible Children will Lose Coverage

The change to the public charge rule could result in millions of children, including 143,000 Colorado kids, losing access to housing, nutrition, and/or health care programs. One analysis estimated that 75,000 Coloradans could lose health insurance and that nearly two-thirds of those would be children -- causing the child uninsured rate in our state to double.⁶ Loss of the services provided to children through those programs will harm the health of our kids and damage their chances for success and well-being.

Children will be harmed by jeopardizing the ability of immigrant parents to maintain legal status

The proposal will increase the number of parents who are unable to maintain their legal immigration status because of their use of benefits for which they are eligible. Parents who are unable to maintain their legal status will be at increased risk of immigration-related detention and deportation. The immigration enforcement actions against a parent -- or the threat of immigration enforcement action against a parent -- can harm a child's long-term health and development. For example, a child's risk of having mental health problems like depression, anxiety, and severe psychological distress, including post-traumatic stress disorder symptoms, increases following the detention and/or deportation of a parent.⁷

Children's Health Insurance Program should not be considered

The Department of Homeland Security requests comments on whether use of CHIP should be included in the finalized rule. Approximately 90,000 Colorado children and pregnant women

⁶ Colorado Health Institute. "Changing the 'Public Charge' and Health Insurance in Colorado: New Immigration Rule Would Mean Big Drops in Coverage." October 5, 2018. Found online at:

<https://www.coloradohealthinstitute.org/research/changing-public-charge-and-health-insurance-colorado>

⁷ American Immigration Council, "U.S. Citizen Children Impacted by Immigration Enforcement," May 2018,

https://www.americanimmigrationcouncil.org/sites/default/files/research/us_citizen_children_impacted_by_immigration_enforcement.pdf

from working families use CHIP for their health insurance every year. This program, by design, serves the working families in our state who make too much to qualify for Medicaid and too little to afford health care in the private market. It bridges the gap for families as they climb up the income ladder. With CHIP, families are able to purchase health insurance for their children with one low annual fee and co-pays that are based on a sliding scale. This program represents the difference between a healthy start and a childhood plagued with no preventative care, poor health, and poor performance in school for these working families. It should not be included in the list of programs contemplated under this rule.

Children's use of benefits should not be included in any public charge test

The Department also requests comment on the receipt of public benefits by certain alien children. We point out that children's use of public benefits, including Medicaid, CHIP, SNAP, and housing assistance, are necessary for their healthy growth, development, and future ability to have economic security. Medicaid and CHIP coverage improve child health and lead to missing fewer days of school. And research shows that improved Medicaid access leads to increases in long-term educational attainment.⁸ Healthier children have better educational opportunities and are more likely to be economically secure and contribute to their communities as adults.⁹ Parents who wish to help their children through the use of public benefits should not have to weigh their children's present needs against future immigration status adjustment goals. Use of Medicaid, CHIP and other programs should never be considered in the Inadmissibility on Public Charge grounds test against alien children when they come of age and aim to adjust their immigration status.

In conclusion, we urge you to rescind the proposed rule in its entirety.

Thank you for your close attention to these comments.

Sincerely,

All Kids Covered Advisory Committee

⁸ Paradise, J., (2014). The Impact of Children's Health Insurance Program (CHIP): What Does the Research Tell Us? The Kaiser Commission on Medicaid and the Uninsured. Retrieved from: [https://kaiserfamilyfoundation.files.wordpress.com/2014/07/8615-the-impact-of-the-children_s-health-insurance-program-chip-what-does-the-research-tell-us.pdf](https://kaiserfamilyfoundation.files.wordpress.com/2014/07/8615-the-impact-of-the-children-s-health-insurance-program-chip-what-does-the-research-tell-us.pdf)

⁹ Center on the Developing Child at Harvard University. (2010). The foundations of lifelong health are built in early childhood. Available at <http://developingchild.harvard.edu/resources/the-foundations-of-lifelong-health-are-built-in-early-childhood/>