Congress of the United States
House of Representatives
Washington, DC 20515-4329

December 19, 2025

Submitted via www.regulations.gov

The Honorable Kristi Noem
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue SE
Washington, D.C. 20528

The Honorable Joseph B. Edlow
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Dr.
Camp Springs, MD 2058

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

Dear Secretary Noem and Director Edlow:

As a Member of Congress representing the 29th Congressional District of Texas (TX-29) and the Whip of the Congressional Hispanic Caucus, I write in strong opposition to the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking (NPRM) changes regarding "public charge," published in the Federal Register on November 19, 2025.

This proposed rule would undoubtedly have a pronounced impact on Harris County, Texas, and more specifically, my district. Immigration plays a crucial role in the state and local economy: immigrants have contributed billions in taxes and consumer spending, bolstered the weakening workforce, and created more opportunities for their communities, like starting small businesses, more than any other group of people. They are our friends, colleagues, and family.

As a former social worker and legal aid attorney, I worked directly with families struggling to meet basic needs. Immigrants, including undocumented immigrants, are largely ineligible for federal public benefits and often contribute more in taxes than they receive. By reviving these welfare myths and removing clear guardrails, the proposed rule changes will create fear and confusion that deter families from accessing lawful benefits.

That is why I strongly urge DHS to withdraw the proposed rule that would remove the currently well-defined regulations on public charge without replacing them. This would leave gaps where there are already clearly established guidelines about what programs can and cannot be considered in a public charge assessment, and that the use of benefits by family members, specifically children, would not be considered.

The proposed rule, as written, will undoubtedly create fear, uncertainty, and a chilling effect far beyond what has been previously seen. As the NPRM explicitly indicates, the proposed rule will make the nation and its communities, including U.S. citizen children, sicker and poorer.

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."

DHS should rescind the proposal. It is a threat to the nation's health and well-being, and to the fair administration of immigration law.

If this rule is finalized, it would rescind the 2022 final rule on public charge and does not offer any replacement language, creating a regulatory void that will leave families and communities in the dark. Instead of providing clear guidance in a timely manner, DHS states that, at an undisclosed 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.

Without providing any details on the new tools and guidance, the proposed rule attempts to reinterpret the law. This rejects the long-standing precedent that an individual can only be deemed a public charge if they are likely to become "primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense."

This meaning of public charge is consistent with case law and models Congressional intent that were adopted through the 1999 field guidance and 2022 final rule. Comparatively, the Administration's NPRM radically creates an exclusionary definition of public charge that would allow for denials for any reason, including the use of supplementary benefits received by many workers and families, as well as a broader range of health conditions.

The NPRM would remove the clarity provided by the current regulations, especially concerning which public benefits can be considered in the public charge assessment. It suggests that the Administration's proposal will consider any receipt of any 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, i.e., children and dependents, as relevant to the public charge determination.

This new proposed definition adopts broader discretion, returning to an individualized, case-by-case review, and relies on officer judgment for self-sufficiency. This goes beyond the already harmful 2019 final rule, which defined public charge by specific benefits, such as Supplemental Nutrition Assistance Program (SNAP), Medicaid, housing, energy assistance, and childcare subsidies.

The NPRM even states that the punitive rule adopted by the Trump Administration in 2019 was not extreme enough because it would restrict officers from making the public charge assessment by placing any limits on the receipt of benefits could be considered.

The 2019 final rule, while still punitive, was clearly defined, providing clear guidance and definitions. It still left communities in my state unable to access necessary care for their families. In Texas, we saw a widespread "chilling effect," one that was created by the previous Trump administration and further intensified by this rule. At the time, a non-profit organization in Houston, ECHOS, saw declines of 42% in Children's Medicaid enrollment, 42% in adult Medicaid and Children's Health Insurance Program (CHIP) Perinatal enrollment, and 37% in SNAP enrollment.[1]

Under a clearly defined policy change, these declines were troubling. These effects will be more pronounced under the current NPRM. Because the proposed rule does not define means-tested public benefits and uses a variety of other terms to describe the programs that will be considered, including broad categories like "public benefit programs," "public resources," and "any type of public resources," it maximizes confusion and fear.

As written, the rule removes existing guardrails and refuses to provide any guidance on which benefits are considered. This punitive proposal will predictably discourage eligible communities from seeking benefits for which they are eligible. Even more so, the lack of guidance leaves state and local governments, service providers, and community organizations with no reliable basis for advising those who seek assistance.

The NPRM also signals that the agency could expand scrutiny of individuals to include their family members. The rule removes the section explicitly stating that applying for or receiving benefits on behalf of family members is not considered "receipt." This will have a significant effect, reducing the use of benefits by U.S. citizens, lawful permanent resident (LPR) children, and pregnant people.

This chilling effect of the proposed rule is both predictable and consequential: increased poverty, children going hungry or unsheltered, and delayed or foregone medical care, with lasting negative effects on their health and well-being. The harmful impacts that various communities across the country, including my own, saw in the aftermath of the 2019 final rule will only become more prominent.

[1] https://www.childrensdefense.org/wp-content/uploads/2024/10/Public-Charge-and-Private-Dilemmas-TX_FINAL-020.pdf

The rule would also harm the country's health care systems, schools, communities, and the broader economy. The proposed rule acknowledges these harms but understates their impact. It makes no case for the need to replace the current lawful and effective regulations and does not explain any benefits that would outweigh the widespread and devastating harm that repealing them would cause.

The rule would also mark a fundamental shift from the nation's historic commitment to welcoming immigrants. The proposed changes would radically reshape the legal immigration system and redefine who is 'worthy' of being an American, along with what we look like as a country.

If adopted, the rule fundamentally alters the values underlying the nation's immigration system. Noncitizens would no longer have clear guidelines to offer protection against immigration officers who discriminate or act arbitrarily in making determinations relating to adjustments of status.

The proposed rule undermines congressional intent and does away with decades of precedent.

In 1999, following confusion from the *Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)* and the *Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)*, DHS provided clear guidance, reassuring communities that non-cash benefits would not be considered in the public charge determination. The guidance provided a single exception of government support for institutionalization for long-term care.

The clear guidance provided immigrants and service providers with the necessary information to access and offer aid. Without this guidance, the public will undoubtedly see similar, if not elevated, levels of confusion and harm to immigrants and broader communities experienced prior to the 1999 field guidance.

The 2022 final rule reiterated this guidance. The NPRM acknowledges this longstanding and widely adopted definition of public charge. However, rather than respect precedent, the proposed rule signals that the Administration intends to adopt a much more exclusionary concept of public charge. It also repeatedly emphasizes the importance of allowing immigration officers to make decisions based on subjective opinions, without clear guidance.

Despite the NPRM's attempt to suggest that its redefined meaning of public charge is consistent with Congressional intent, Congress has made multiple changes to immigrant eligibility for benefits since the issuance of the 1999 guidance. This includes laws that made benefits more accessible across the board, including allowing immigrant children to receive SNAP benefits and giving states the ability to cover immigrant children and pregnant people under the Children's Health Insurance Program (CHIP). In addition, if Congress disagreed with the 1999 guidance, the legislative body had multiple opportunities to correct and redefine DHS's understanding of public charge, i.e., during the 2022 NPRM before it became a finalized rule.

The proposed rule lacks clarity, creating a regulatory gap that will leave service providers, state and local governments, and most of all, working families and immigrants in the dark.

As written, the NPRM refuses to provide any clear guidance on what benefits will or will not be considered in a public charge assessment. This lack of a decision creates fear and uncertainty among immigrants, which will discourage them and their families from accessing benefits for which they are eligible.

There are a vast number of programs and services that an immigration official might subjectively decide fall under the heading of a "public benefit" or "public resource." Although it is unbelievable that DHS intends that *all* of these benefits should count in the public charge determination, the proposed rule does not provide any guidance on which programs would *not* be considered.

Without clear guidance, states, local governments, and organizations that help families enroll in benefits 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 cannot reasonably be expected to understand the details of hundreds or thousands of programs.

Even more concerning is that the proposed rule appears to leave room for officers to consider benefits used by family members who are not actively seeking to adjust their status. The rule removes the regulatory definition of "receipt (of public benefits)" (8 CFR Part 212.21(d)), which explicitly states that applying for or receiving benefits on behalf of family members is not considered "receipt." It also fails to provide any such reassurance, as the 2019 final rule did.[2]

Without that clear language, immigrants can't know whether benefits used by family members, including U.S. citizen children, will harm them when they seek to obtain Legal Permanent Resident (LPR) status, or for providers to offer them meaningful reassurance.

The impact of the rule will be widespread, harmful, and disproportionate, impacting more communities than DHS acknowledges or anticipates.

The proposed rule includes an economic impact analysis, which predicts that approximately 447,000 people will disenroll or choose not to enroll 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).[3] However, as harmful as this impact would be, these numbers only paint a small picture of the potential harm.

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[2] 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.

[3] 2025 Final Rule, Table VI.10, https://www.federalregister.gov/d/2025-20278/page-52214

The impact of the harm will disproportionately impact 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. Most of these children are U.S. citizens, either in mixed-immigration status households (with noncitizen parents) or with naturalized citizen parents. Only about three percent of children in the U.S. are themselves noncitizens.[4] In Houston, it is estimated that more than 70,000 children have one or two parents who are noncitizens.[5]

Children in immigrant families are already more likely to face certain hardships and are less likely to access help, due in part to flawed policies that create barriers to immigrant families' ability to access critical public benefits. 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.

Even after H.R. 1, pregnant people and children who are lawfully present remain eligible for Medicaid or CHIP in more than half of the states that have elected to provide that coverage. This is yet another group that could be harmed by the chilling effect created by this proposed rule.

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 current economy, future workforce, and collective economic security. It is important to America's future to do everything we can as a nation to ensure that these children succeed, or 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 and their children's access to these benefits is short-sighted and will harm all of the United States.

Conclusion

The reasons outlined are just a few justifications as to why DHS should immediately withdraw the punitive 2025 Notice of Proposed Rulemaking. Instead, the agency should dedicate its efforts to advancing policies consistent with congressional intent, statute, and precedent that strengthen, not undermine, the ability of immigrants to support themselves and their families.

The existing framework already reflects congressional intent and provides immigrant families, state and local governments, and service providers with the clarity needed to make informed decisions. It is our responsibility to create and invest in an immigration system that prioritizes fairness, transparency, and consistency with the rule of law.

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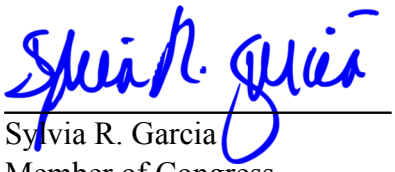
[4] Drishti Pillai, Akash Pillai, and Samantha Artiga. *Children of Immigrants: Key Facts on Health Coverage and Care*. KFF, 2025. https://www.kff.org/racial-equity-and-health-policy/children-of-immigrants-key-facts-on-health-coverage-and-care/.

[5] https://americancommunitymedia.org/immigration/more-than-70000-kids-in-houston-impacted-by-risks-of-deportation/

Thank you for the opportunity to comment on this regulation. I look forward to working with the Department to protect immigrant families, strengthen pathways to lawful status, and maintain the integrity of the public charge ground as Congress originally intended.

Sincerely,



Sylvia R. Garcia
Member of Congress