



December 7, 2018

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
Washington, D.C. 20528

Sent via www.regulations.gov

Re: DHS Docket No. USCIS-2010-0012, Inadmissibility on Public Charge Grounds

Dear Secretary Nielsen:

On behalf of the 4,200 pediatrician and medical student members of the Texas Pediatric Society, the Texas Chapter of the American Academy of Pediatrics, and the 4,100 obstetrician/gynecologists who make up the Texas Association of Obstetricians and Gynecologists (TAOG), we write to oppose the Department of Homeland Security's Notice of Proposed Rulemaking: Inadmissibility on Public Charge Grounds (DHS Docket No. USCIS-2010-0012).

The mission of the Texas Pediatric Society is to ensure that the children in Texas are safe and healthy, that its members are well informed and supported, and that the practice of pediatrics in Texas is both fulfilling and economically viable. The mission of the Texas Association of Obstetricians and Gynecologists and every women's healthcare provider is to provide timely access to health care. These changes put a governmental barrier between physicians and their patients, as well as their families. When immigrant women experience barriers to health care, including prenatal care, they experience poorer health outcomes.

If finalized, the proposed rule would undermine these core missions and place the health and wellbeing of more than a million children in Texas at risk. We strongly urge you to rescind this rule and refocus your efforts to ensure policies that affect immigrant children and their families are compassionate and provide the access to healthcare and social services that we would demand for our own children.

Texas, more than nearly any other state, will be particularly affected by the policy changes outlined in the proposed rule. We have long been home to large numbers of immigrants who are Lawful Permanent Residents. Within the last decade, between 90,000 and 111,000 new Lawful Permanent Residents have called our state home each year.¹ Additionally, many Texas families that include both U.S. citizens and non-citizens will be impacted. More than one out of every four Texas kids has at least one parent who is not a U.S. citizen, meaning this rule change could affect around 1.8 million Texas children. More than 9 out of 10 of these children are U.S. citizens. If the parent of these children is moving through the lawful immigration pathway to receive their green card they may forgo accessing health, food and housing programs that their children are legally eligible to receive because of the proposed rule.

¹ Department of Homeland Security. (Oct 2, 2018). Publications Library: Lawful Permanent Residents (LPR). Retrieved from: <https://www.dhs.gov/immigration-statistics/lawful-permanent-residents>

Texas pediatricians and obstetrician/gynecologists are already seeing the effects of the threat of the proposed rule on their patients. Some de-identified examples in Texas include:

- Two-year-old child with difficult to control asthma and multiple office and emergency room visits requires a pulmonary consultation, but her father is too scared to apply for Medicaid for the child due to his current application for a green card.
- Family with newborn child has been screened for and is experiencing food insecurity, but the family is afraid to apply for SNAP due to their current application for a green card.
- Nine-year-old child needs occupational therapy, but her Medicaid recently lapsed, and the family is afraid to renew out of concern for their current application for a green card.
- Children on Medicaid and CHIP are not showing up to their medical appointments and checkups at higher rates than usual.
- Families with mixed immigration status are fearful to following through with referrals for specialty treatment.
- Lower rates of prenatal care visits from immigrant women as well as lower rates in postpartum care visits.
- Returned breast pumps to hospitals for fear of punitive actions.
- Women who qualify for Medicaid that would cover prenatal care, labor and delivery may feel they face the choice of—risk a “public charge” determination by signing up for coverage or go without crucially-needed care.
- A pregnant woman or mother of an infant may avoid enrolling herself and her child in WIC out of fear of deportation or jeopardizing eligibility for citizenship despite WIC not being included in the public charge rule.

While the proposed rule does not penalize immigrants for a child’s use of Medicaid or other programs, the proposed rule has and will continue to have a chilling effect on child enrollment, re-enrollment and utilization of public benefits. Furthermore, when a parent disenrolls themselves from health care coverage or nutrition programs it adversely affects children and families by straining household finances.

Additionally, the latest data from the U.S. Census Bureau American Community Survey (ACS) demonstrates for the first time in more than a decade the child uninsurance rate has increased from 4.7% in 2016 to 5% in 2017. One of the largest increases in child uninsurance was seen in Texas (0.9%) keeping our state at the top in most children uninsured (10.7%) in the nation. Conclusions from the Georgetown University Health Policy Institute Center for Children and Families report² on the topic cite the proposed “public charge” rule will likely result in even more uninsured children. Uninsured children are less likely to receive preventive care such as getting routine vaccinations and treating medical conditions such as asthma which keeps them healthy and able to succeed in school.

The proposed rule dramatically changes the definition of a “public charge” from someone who relies on the government as a main source of support to someone who participates in a health, nutrition, or housing benefit to support their ability to work. The policies in the proposed rule would deter immigrant families from utilizing

² Alker, J. & Pham, O. (Nov 2018). Nation’s Progress on Children’s Health Coverage Reverses Course. Georgetown University Health Policy Institute Center for Children and Families. Retrieved from: https://ccf.georgetown.edu/wp-content/uploads/2018/11/UninsuredKids2018_Final_asof1128743pm.pdf

vital health and social service programs that keep them healthy and productive like Medicaid, the Supplemental Nutrition Assistance Program (SNAP) and housing assistance through Public Housing, Section 8 Housing Vouchers and Rental Assistance. The goal of each of these programs is not to foster dependence on the government, but to provide meaningful support to lift families and their children out of poverty and make them productive participants in the American economy and in our local communities. Forcing families to make the punishing decision between health and social service programs and their immigration status is cruel and not a calculation parents should be making when caring for their children.

The proposed rule requests input from stakeholders on whether the Children's Health Insurance Program should be included the list of proposed public programs which could deem the immigration applicant a "public charge". We emphatically insist this should not be included in any rulemaking. Texas' CHIP Perinatal program provides vital health care coverage for women who do not qualify for Medicaid to receive prenatal care for a health pregnancy and a healthy baby. Without access to this vital source of prenatal care, uninsured Texas children, born in the United States and thus citizens, can be born too early, too small or with special needs such as delays or disabilities. The costs of these disabilities will be incurred by our state's Medicaid program, Early Childhood Intervention (IDEA Part C) program and special education programs. Additionally, our state is already experiencing a crisis in maternal mortality with our rate higher than many states and developed countries. As a result, the state's Maternal Mortality and Morbidity Taskforce³ issued a report recommending increased access to preconception health services. The proposed rule should not take Texas backwards by punishing immigrant women for utilizing CHIP Perinatal programs and limiting their access to prenatal care for their unborn baby.

Finally, the proposed rule radically changes current policy by adding more government discretion to who can fail the "totality of circumstances test" by adding individual or household income above 250% of the federal poverty limit as a heavily weighted positive factor and lack of job or job prospect, having a health condition without private insurance, and receipt of public benefits as heavily weighted negative factors in the determination of an immigrant's application status. If an immigrant has a large family with multiple children or a major illness or disability, this could negatively affect their application for a green card. We find this extremely problematic as it would severely and unfairly punish large households which more often include children.

It is for these reasons that the Texas Pediatric Society strongly urges the Department of Homeland Security to rescind the Inadmissibility on Public Charge Grounds proposed rule. For any questions, please contact Clayton Travis, Director of Advocacy and Health Policy at the Texas Pediatric Society at Clayton.Travis@txpeds.org or 512-370-1516.

Sincerely,



Ben Raimer, MD
President, Texas Pediatric Society



G. Sealy Massingill, MD
President, Texas Association of Obstetricians and Gynecologists

³ Texas Department of State Health Services Maternal Mortality and Morbidity Taskforce. (Sept 2018). Joint Biennial Report. Retrieved from: <https://www.dshs.texas.gov/mch/pdf/MMMTFJointReport2018.pdf>