

National Headquarters  
2231 Crystal Drive, Suite 450  
Arlington, VA 22202  
(202) 371-9090

Regional Office  
600 Peachtree Street NE, Suite 1000  
Atlanta, GA 30308  
(202) 371-9090

www.astho.org  
@ASTHO

November 30, 2018

Samantha Deshommes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
20 Massachusetts Avenue NW  
Washington, D.C. 20529-2140

DHS Docket No. USCIS-2010-0012  
Proposed Rule on Inadmissibility on Public Charge Grounds

Dear Ms. Deshommes,

The Association of State and Territorial Health Officials (ASTHO) appreciates the opportunity to provide comments regarding the Proposed Rule on Inadmissibility on Public Charge Grounds (DHS Docket No. USCIS-2010-0012). ASTHO is the national nonprofit organization representing the public health agencies of the United States, U.S. territories and freely associated states, and the District of Columbia. ASTHO members, the chief health officials of these jurisdictions, are dedicated to formulating and influencing sound public health policy and ensuring excellence in public health practice.

Since 1999, the federal government has consistently maintained that programs like the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and housing assistance could not be considered in public charge review. The reason for this is to ensure that families—including U.S. citizen children living with an immigrant parent—have access to medical care, adequate nutrition, and safe shelter. ASTHO supports the availability and accessibility of critical programs that protect and improve the public's health.

ASTHO affirms that many public benefit programs play an important role in preventing the spread of communicable diseases (e.g., HIV and influenza), reducing the prevalence of noncommunicable diseases (e.g., diabetes and obesity), ensuring healthy pregnancies and birth outcomes, improving nutritional deficits among infants, and promoting positive health outcomes for young children. The proposed rule would deter immigrants and their families from accessing programs through which they receive essential public health and nutrition services. In its comments, the U.S. Department of Homeland Security (DHS) estimates that the population range of foreign-born noncitizens who may disenroll from or forego enrollment in public benefits programs would range from 333,239 to 999,717.<sup>1</sup>

Given its significant negative public health consequences, ASTHO opposes the rule and urges DHS to withdraw it. However, if the rule moves forward, we urge DHS to explicitly exclude both the Children's Health Insurance Program (CHIP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) from public charge review.

National Headquarters  
2231 Crystal Drive, Suite 450  
Arlington, VA 22202  
(202) 371-9090

Regional Office  
600 Peachtree Street NE, Suite 1000  
Atlanta, GA 30308  
(202) 371-9090

www.astho.org  
@ASTHO

**For the reasons outlined below, the proposed rule weakens our health security and puts America’s public health at risk and should be withdrawn.** In its own overview of the impact of the proposed rule, DHS states that disenrollment or foregoing enrollment in public benefits programs by immigrants and their families otherwise eligible for these programs could lead to:

- (1) worse health outcomes, including increased prevalence of obesity and malnutrition—especially for pregnant or breastfeeding women, infants, or children—and reduced prescription adherence.
- (2) increased use of emergency rooms and emergent care as a method of primary healthcare due to delayed treatment.
- (3) increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated.
- (4) increases in uncompensated care which a treatment of service is not paid for by an insurer or patient.
- (5) increased rates of poverty and housing instability.
- (6) reduced productivity and educational attainment.<sup>2</sup>

State and territorial health officials are gravely concerned about these six areas given their responsibility to protect and promote the health of their jurisdictions and prevent diseases statewide. Therefore, since the public health risks and health impacts are known and could potentially affect all Americans regardless of their immigration status, ASTHO urges DHS to withdraw the proposed rule.

According to the Centers for Medicare and Medicaid Services (CMS), Medicaid plays a “key role in the prevention of disease through facilitating access to vaccines and vaccine activities.”<sup>3</sup> Despite the exception in the proposed rule for public health assistance for immunizations for vaccine-preventable diseases and for testing and treatment of symptoms of communicable diseases, the proposed rule would likely result in disenrollment from Medicaid and, thus, restrict access to vaccines that can prevent diseases, such as influenza, measles, mumps, diphtheria, and rubella. As a result, there could be severe negative health consequences for both immigrant populations directly impacted by the proposed rule, as well as the general population who are legal residents and citizens. For vaccines to protect a population, a certain percent of people need to be immunized to prevent the spread of vaccine-preventable diseases. Moreover, discontinuation of treatment and preventive services by the immigrant population impacted by the proposed rule will likely result in the spread of other communicable diseases that cannot be prevented by vaccines.

DHS requests comments on other “possible consequences of the rule and appropriate methodologies for quantifying these non-monetized potential impacts.” While not monetizable, this proposed rule would also harm health security and, thus, national security. For example, in the event of a novel influenza outbreak, a critical first step involves getting people to access healthcare, which requires having established trust in governmental public health authorities. Additionally, engaging with the public health system is critical to ensuring robust immunization and treatment campaigns. If subsets of the community are fearful to access government services, regardless of whether the public charge condition applies or not, this will have a significant impact on our ability to protect and promote the public’s health.

Finally, ASTHO supports programs that prevent obesity and reduce the prevalence of noncommunicable diseases by increasing access to healthy foods, physical activity, and preventive health services.<sup>4</sup> Disenrollment or foregoing enrollment from public benefits programs that provide preventive care,

National Headquarters  
2231 Crystal Drive, Suite 450  
Arlington, VA 22202  
(202) 371-9090

Regional Office  
600 Peachtree Street NE, Suite 1000  
Atlanta, GA 30308  
(202) 371-9090

www.astho.org  
@ASTHO

nutritional services, and prescriptions for chronic diseases will negatively affect the health of the immigrant populations impacted by the proposed rule.

Should the Administration move forward with the final rule as proposed, ASTHO asserts that the following two programs should be exempted:

### **1. The Children’s Health Insurance Program (CHIP) Should be Explicitly Exempted from Public Charge Review**

ASTHO urges DHS to explicitly exempt CHIP from public charge review. This recommendation is in response to DHS specifically requesting public comments on “whether to include CHIP in the final rule” as a public benefit considered in public charge inadmissibility determinations.<sup>5</sup>

Healthcare access is an important factor in preventing disease, detecting and treating illnesses, enhancing quality of life, reducing the likelihood of premature death, and increasing life expectancy.<sup>6</sup> ASTHO supports programs and services that ensure access to high quality, prevention-focused primary care services, especially those that target vulnerable populations that may be at risk for adverse health outcomes.<sup>7</sup>

The CHIP program provides low-cost health coverage to children and sometimes to adults and pregnant women who earn too much to qualify for Medicaid, but still require assistance to pay for healthcare. CHIP benefits vary by state, but all states provide comprehensive coverage, including routine check-ups, immunizations, doctor visits, prescriptions, dental and vision care, inpatient and outpatient hospital care, laboratory and X-ray services, and emergency services.<sup>8</sup>

If CHIP is included in the final rule, this could result in a loss of coverage for vulnerable populations. Without access to primary care, laboratory services, immunizations, dental and vision care, and—in some cases—prenatal care, there could be negative health consequences for those served by this program. Those without coverage may visit emergency departments for care that could have otherwise been delivered more efficiently and effectively in a primary care setting or they may present with more acute disease symptoms or conditions due to a lack of healthcare access.

### **2. The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Should be Explicitly Exempted from Public Charge Review**

ASTHO urges DHS to explicitly exempt WIC from public charge review. This recommendation is in response to DHS seeking comments on “whether an alien’s receipt of benefits other than those proposed to be included in this rule as a public benefits [sic] should nonetheless be considered in the totality of the circumstances.”<sup>9</sup>

ASTHO supports systematic approaches to improve birth outcomes by prioritizing prevention policies and enabling and facilitating access to care.<sup>10</sup> WIC is an intervention program designed to influence lifetime nutrition and health behaviors among low-income pregnant and postpartum women, infants, and children up to age five who are at nutritional risk.<sup>11</sup> Studies show that WIC is effective and helps reduce premature births, low and very low birthweight babies, and fetal and infant deaths. WIC has also been shown to increase access to prenatal care earlier in pregnancy, consumption of key nutrients by pregnant women, immunization rates, and access to regular healthcare.<sup>12</sup> Mothers and children that disenroll from or forego enrollment in WIC will

National Headquarters  
2231 Crystal Drive, Suite 450  
Arlington, VA 22202  
(202) 371-9090

Regional Office  
600 Peachtree Street NE, Suite 1000  
Atlanta, GA 30308  
(202) 371-9090

www.astho.org  
@ASTHO

lose access to preventive health measures that can mitigate significant health conditions or poor health outcomes.

### Summary

ASTHO has significant concerns about the proposed rule's impact on public health and we urge the Administration to withdraw it. However, if the rule is implemented, we strongly urge DHS to explicitly exclude CHIP and WIC from the public charge review. If you have any questions or would like additional information, please contact Carolyn Mullen ([cmullen@astho.org](mailto:cmullen@astho.org)), ASTHO's chief of government affairs and public relations.

Sincerely,



Nicole Alexander-Scott, MD, MPH  
ASTHO President  
Director, Rhode Island Department of Health



Michael Fraser, PhD, MS, CAE, FCPP  
Chief Executive Officer, ASTHO

<sup>1</sup> U.S. Department of Homeland Security, Proposed Rule: Inadmissibility on Public Charge Grounds, 83 Fed. Reg. 51,114, 51,269 (Oct. 10, 2018) ("NPRM").

<sup>2</sup> NPRM at 51,270.

<sup>3</sup> Center for Medicaid and CHIP Services. "Quality of Care Vaccines." Available at: <https://www.medicaid.gov/medicaid/quality-of-care/improvement-initiatives/vaccines/index.html>. Accessed 11-8-2018.

<sup>4</sup> ASTHO. "Prevention and Reduction of Obesity in the United States Position Statement." Available at: <http://www.astho.org/Policy-and-Position-Statements/Position-Statement-on-Obesity-Prevention-and-Reduction/>. Accessed 11-8-2018.

<sup>5</sup> NPRM at 51,174.

<sup>6</sup> Office of Disease Prevention and Promotion. "Access to Health Services." Available at: <https://www.healthypeople.gov/2020/leading-health-indicators/2020-lhi-topics/Access-to-Health-Services>. Accessed 11-8-2018.

<sup>7</sup> ASTHO. "Access to Health Services Policy Statement." Available at: <http://www.astho.org/Policy-and-Position-Statements/Policy-Statement-on-Access/>. Accessed 11-8-2018.

<sup>8</sup> U.S. Centers for Medicare & Medicaid Service. "The Children's Health Insurance Program (CHIP)." Available at: <https://www.healthcare.gov/medicaid-chip/childrens-health-insurance-program/>. Accessed 11-8-2018.

<sup>9</sup> NPRM at 51,173.

<sup>10</sup> ASTHO. "Improving Birth Outcomes Position Statement." Available at: <http://www.astho.org/Policy-and-Position-Statements/Improving-Birth-Outcomes/>. Accessed 11-8-2018.

<sup>11</sup> National WIC Association. "WIC Program Overview and History." Available at: <https://www.nwica.org/overview-and-history>. Accessed 11-8-2018.

<sup>12</sup> USDA Food and Nutrition Service. "Women, Infants and Children (WIC)." Available at: <https://www.fns.usda.gov/wic/about-wic-how-wic-helps>. Accessed 11-8-2018.