American College of Physicians
Leading Internal Medicine, Improving Lives

December 5, 2018

The Honorable Kirstjen M. Nielsen
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: Inadmissibility on Public Charge Grounds proposed rule (DHS Docket No. USCIS-2010-0012)

Dear Secretary Nielsen,

The American College of Physicians (ACP) is pleased to offer comments on the Department of Homeland Security's Notice of Proposed Rulemaking: Inadmissibility on Public Charge Grounds (DHS Docket No. USCIS-2010-0012). ACP is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 154,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

We strongly oppose the DHS' proposed rule on public charge because if finalized it would put the health of millions of children and families at risk. The proposed changes would expand the number of programs that the federal government would consider in public charge determinations to include Medicaid, the Medicare Part D Low-Income Subsidy Program, the Supplemental Nutrition Assistance Program, and potentially the Children's Health Insurance Program (CHIP), among others. By widening public charge determinations in this way, the proposed rule would make it much more likely that lawfully present immigrants and those seeking to lawfully immigrate to the U.S. could be denied lawful permanent resident status, be denied visas, or even be deported, merely on the basis of seeking essential health, nutrition, and housing services for themselves or their families. Those seeking to immigrate lawfully to the U.S. would also be denied entry based on their potential need to access these services.

The proposed rule would undermine the physician-patient relationship and disrupt care continuity, and it is antithetical to the College's mission to ensure meaningful access to health care for our patients. Immigration policy should not interfere with physicians' and other health care professionals' ethical and professional obligation to care for the sick and should not foster discrimination against a class or category of patients in the provision of health care.

We are extremely concerned that many of the patients served by our members will avoid needed care rather than face the threat of deportation or family separation, jeopardizing their own health and the health of their communities. The Kaiser Family Foundation estimates that between 2.1 and 4.9 million individuals currently enrolled in Medicaid/CHIP would disenroll as a result of the proposed rule. These estimates include both noncitizens seeking legal permanent resident status and a broader group of individuals in immigrant families, including those with U.S. citizen children, even though the proposed rule would not directly affect them. Medicaid is one of our nation's most effective poverty reduction programs (i). Medicaid coverage is associated with improved self-reported health status and enhanced financial security (ii). Being insured better positions job seekers to search for employment and enables the employed to continue working (iii).

The proposed rule will have negative impacts that will reverberate across populations, including U.S. citizens and legal residents. Parents who are enrolled in health insurance are more likely to have their children insured. Disenrollment from health insurance by parents will result in loss of coverage and access to preventive health care for their children. As a result of this loss of coverage, medical conditions will remain undiagnosed and untreated, not only threatening our patients' health, but also negatively impacting public health. These follow-on effects include higher prevalence of communicable diseases, especially if this population foregoes vaccinations as a result of this proposal (iv). The proposed rule acknowledges other negative health consequences, including worsened health outcomes for pregnant women, infants and others, and higher rates of chronic conditions such as obesity (v). Deferred care also results in more complex medical care, significantly increasing costs to the health care system and U.S. taxpayers. The public charge rule will exacerbate problems related to social determinants of health, including access to safe and affordable housing and nutritious food. Community health centers, a vital component of our health care safety net, would experience major economic difficulties as a result of the proposal. According to one report, health centers' Medicaid revenue could decline by $346 million to $624 million, jeopardizing their ability to provide care and stifling a crucial economic driver for many communities (vi).

The proposed rule also expands the definition of public charge to include low income individuals with preexisting conditions under the assumption that they may use federal health insurance benefits or access other vital services in the future. Further, the proposal would discourage receipt of preventive care, because non-citizens with pre-existing conditions who do not have private insurance would be considered a public charge. This could result in higher rates of emergency department use if preventable conditions go untreated and require emergent attention (vii).

The proposed rule specifically requests comment on whether the Children's Health Insurance Program (CHIP) should be included in a public charge determination. We strongly oppose the inclusion of CHIP for many of the same reasons that outlined above. Nearly 9 million children in the U.S. depend on CHIP for their health care. One in four children lives in a family with an immigrant parent, and nearly 86% of these children are citizens.[viii] Many eligible citizen children would likely forego CHIP and health care services altogether if their immigrant parents fear that they will be subject to a public charge determination.

In our 2011 paper, *National Immigration Policy and Access to Health Care,* ACP called for a national immigration policy on health care that balances the needs of the country to control its borders, provides access to health care equitably and appropriately, and protects the public's health.[ix] ACP believes that national immigration policy should differentiate treatment of persons who fully comply with the law in establishing legal residency from that of persons who break the law in the determination of access to subsidized health coverage and treatment. At the same time, national immigration policies should ensure that all residents of the United States, without regard to their legal residency status, have access to medical care, especially for primary and preventive care and vaccinations against communicable diseases. The proposed rule would impede access to essential services to individuals lawfully present in the U.S. and would have negative consequences for not only the impacted individuals and their families but also their communities.

We appreciate the opportunity to comment on this proposed rule and urge you not to finalize it. Instead, DHS should withdraw the rule in its entirety; any subsequent rulemaking must prioritize the health of lawful non-citizen U.S residents over other considerations. If you have any questions, please contact Renee Butkus, Director, Health Policy at rbutkus@acponline.org.

Sincerely,

Ana María López, MD, MPH, MACP
President
American College of Physicians

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[iii] Gehr J and Wikle S. The Evidence Builds: Access to Medicaid Helps People Work. CLASP. December 2017.

[iv] Katz MH and Chokshi DA. The "Public Charge" Proposal and Public Health: Implications for Patients and Clinicians. N Engl J Med. 2018;320(20): 2075-2076.

[v] Homeland Security Department. Inadmissibility on Public Charge Grounds. Federal Register. Accessed at https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds.

[vi] Ku L, Sharac J, Gunsalus R, Shin P, Rosenbaum S. How Could the Public Charge Proposed Rule Affect Community Health Centers? Geiger Gibson/RCHN Community Health Foundation Research Collaborative. Policy Issue Brief #55. November 2018. Accessed at https://publichealth.gwu.edu/sites/default/files/downloads/GGRCHN/Public%20Charge%20Brief.pdf

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[viii] Kaiser Family Foundation analysis of the March 2017 Current Population Survey, Annual Social and Economic Supplement.

[ix] American College of Physicians. National Immigration Policy and Access to Health Care. Philadelphia: American College of Physicians; 2011: Policy Paper. Accessed at https://www.acponline.org/acp_policy/policies/natl_immigration_policy_access_healthcare_2011.pdf