



April 21, 2022

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
Submitted via www.regulations.gov

Re: DHS Docket No. USCIS-2021-0013, Comments in Response to Proposed Rulemaking, Public Charge Ground of Inadmissibility

Dear Chief Deshommès:

The City of Seattle (“City”) submits this comment in response to the proposed rule (“Rule”) published by the Department of Homeland Security’s (“DHS” or “the Department”) Notice of Proposed Rule Making (“NPRM” or “proposed rule”) to express recommendations to improve the public charge notice of proposed rulemaking published in the Federal Register on February 24, 2022. Aligned with our values as a welcoming city, we believe there should be no public charge barrier to immigrate to the U.S., and we will continue to support advocacy to this end. Until then, this rule represents a commonsense approach to implementing the current law. If finalized with our recommendations, the rule would provide needed clarity and stability for immigrants and their families. We urge you to finalize a rule that includes our recommendations as soon as possible. **Overall, the City of Seattle supports the proposed rule for determining inadmissibility based on “public charge,” and encourages further modifications to the rule, as described below, to ensure a more fair and equitable interpretation.**

I. Introduction

The City of Seattle is a welcoming city and has long been home to a diverse population of immigrants and refugees. The estimated total population of Seattle is 737,015 people, and of those, the U.S. Census estimates that 19.4% or around 142,981 individuals, are foreign-born¹. Of these immigrants, the majority contribute to the city’s economy in a number of ways, whether by starting small and large businesses, paying taxes, or working in one of the many industries that support both the local and national economies. According to the non-partisan thinktank New American Economy, immigrant household incomes accounted for \$29 billion in household income and \$8 billion in taxes paid for the Seattle Metropolitan Area. Additionally, in 2022, the total proposed operating budget of the City is \$7.1 billion.

¹ See <https://www.census.gov/quickfacts/seattlecitywashington>

Due in part to the above statistics, and because of our status as a welcoming city, the City of Seattle has made great efforts to protect our immigrant and refugee workers and residents. Such efforts include executive orders², resolutions³, and ordinances⁴ to ensure immigrants feel welcome and safe in the city. The City has also funded social programs to help income-eligible residents with what we consider to be basic needs. Additionally, the City believes it is the responsibility of our government to assist all Seattleites, including taxpayers, residents, and workers, especially when an individual or family encounters an unforeseen crisis or catastrophic emergency situation, as so many have done in the past two years of pandemic. In this role, the City manifests its core value of providing infrastructure, goods, and services for all residents, but especially for vulnerable, disabled, and marginalized people who cannot individually provide for themselves.

To this end, the City created the Office of Immigrant and Refugee Affairs (OIRA) in 2012 to improve the lives of Seattle's immigrant and refugee families. In line with the City's values of social justice and equity, OIRA works to strengthen immigrant and refugee communities by engaging them in decisions about the City's future and improving the City's programs and services to meet the needs of all constituents. We believe supporting immigrants creates a stronger future for our nation. As with prior generations, today's immigrants are tomorrow's U.S. citizens, who will be fully engaged in the economic, cultural, and civic life of our society, both locally and nationally.

The City believes that Seattle, Washington State, and the nation are stronger when we welcome people and recognize their potential. Our communities and economy depend on the labor of immigrants and U.S. citizens who too often receive modest pay and few benefits for their essential work, and public benefits play a critical role in supplementing their earnings. Nationally, such core health, nutrition, and housing assistance programs help nearly half of Americans make ends meet. Time and again, individuals with limited means make important contributions to the U.S. by caring for the most vulnerable, teaching our children, keeping us fed, and enriching the country.

A study by the University of Washington and the Workforce Development Council of Seattle-King County⁵ demonstrates that a full-time, minimum wage job is usually not sufficient to meet the basic needs of various family configurations in Washington State. The Self Sufficiency Standard for Washington State for 2017 shows that even at the minimum wage, work supports – such as Supplemental Nutrition Assistance Program (SNAP), Medicaid, housing assistance, and childcare assistance – can help families meet their basic needs while they work towards self-sufficiency. This study bolsters the notion that work supports serve as necessary assistance to working families for attaining self-sufficiency.

² See http://murray.seattle.gov/wp-content/uploads/2016/11/Executive-Order-2016-08_Welcoming-City.pdf

³ See <http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=&s3=&s2=&s4=Ordinance+121063&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F~public%2Fresny.htm&r=7&f=G>

⁴ See <http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?d=CBOR&s1=114436.cbn.&Sect6=HITOFF&l=20&p=1&u=/~public/cbor2.htm&r=1&f=G>

⁵ Pearce, Diana M., "The Self-Sufficiency Standard for Washington State 2017," The Workforce Development Council of Seattle-King County, September 2017. Available at http://selfsufficiencystandard.org/sites/default/files/selfsuff/docs/WA2017_SSS.pdf

Qualitative and quantitative research conducted during the last four years confirms that the leadup to and the rollout of the Trump public charge policy created a pronounced and persistent "chilling effect," that caused immigrants and their family members to disenroll from or fail to enroll in critical health, nutrition, and economic supports for which they were eligible. Our immigration policies should not discourage immigrants and their family members from seeking physical or mental health care, nutrition, or housing benefits for which they are eligible. We urge DHS not to exclude people from immigrating simply because of conditions in their countries of origin, discrimination they may have faced in the U.S., and other circumstances have made it difficult for them to complete an education, secure professional credentials, or earn a high income.

Clear, administrable regulations are needed so that immigrants and their families, city and state officials and representatives, staff and volunteers of immigrant- and refugee-serving community-based organizations/agencies, and immigrant community members can consistently understand how a public charge assessment will be determined. This is particularly important because a lack of clarity of public programs and policies can and does cause immigrant families to avoid interacting with the government and forgo critical public benefits for which they are eligible due to fear and confusion. These harms can extend outside of the receipt of public benefits, to seeking any government services such as police protection or public health interventions.

II. The City of Seattle supports the basic framework of the NPRM

We appreciate that the NPRM recognizes that use of supports such as SNAP, Medicaid, or housing assistance should in no way be linked to the exclusionary public charge provision. The proposed regulation restores and improves upon the public charge policy in use from the late-1990s through the late 2010s, and that was consistent with longstanding public charge policy. Importantly, the NPRM recognizes that use of core health, nutrition, and housing assistance programs should in no way be linked to the Immigration and Nationality Act's (INA) public charge provision. They represent our country's policy choices about how to help all workers and families succeed. This is a commonsense foundation on which to build.

The 2019 public charge rule had a significant chilling effect among immigrants and their families in our community. Disenrollment and failure to reenroll in public assistance due to fears over this rule created significant costs to society as families avoided receiving essential benefits like Medicaid and SNAP. These societal costs included worse health outcomes, increased use of emergency rooms, increases in uncompensated health care, increased rates of poverty and homelessness, and reduced productivity and educational attainment. These outcomes have been compounded by the COVID-19 crisis, an emergency that began shortly before the final 2019 public charge rule was implemented. In addition, the 2019 rule also created substantial burden on the City and our contracted partner agencies.

When the concept of "public charge" started receiving increased attention from the federal administration in February 2017, the City of Seattle received reports from both immigrants living within Seattle and staff from community-based organizations that immigrants themselves started refusing local and federal benefits that they qualify for and requested case managers to disenroll them from social programs that they are eligible for. An analysis by Public Health – Seattle & King County found that around 68,900 children in King County would be included in this chilled population.⁶

⁶ City of Seattle Public Comment to: Inadmissibility on Public Charge Grounds, Notice of Proposed Rulemaking, 83 Fed. Reg. 51114, DHS Docket No. USCIS-2010-0012, Appendix B. See: [http://www.seattle.gov/documents/Departments/OIRA/Public Comment to OMB RIN 1615 AA22 City of Seattle FINAL.pdf](http://www.seattle.gov/documents/Departments/OIRA/Public%20Comment%20to%20OMB%20RIN%201615_AA22_City%20of%20Seattle_FINAL.pdf)

The City offers at least 21 means-tested benefits programs for income-qualified residents regardless of their citizenship status and supports programming that partners with the State of Washington to serve public benefits recipients. For instance, the Seattle Utility Discount Program (“UDP”) offers eligible customers a 60% discount on their Seattle City Light bill and a 50% discount on their Seattle Public Utilities bill. UDP is available for income-qualified residential households, regardless of each member of the household’s citizenship or immigration status. Anecdotally, the City of Seattle Human Services Department staff members reported that customers who are immigrants have been reluctant to sign up for the program.

To combat this plethora of costs to the City in terms of human impact and budget, the City of Seattle drafted public comments in opposition to what would be the 2019 final rule on public charge. These comments are attached here at the end of this comment as an appendix.

While the 2019 public charge rule wrought much damage to Seattle families, organizations, and City departments, the City is currently working with community members and local organizations to rebuild trust for accessing public assistance. We support the current proposed rule’s clarifications of the public charge policy. Specifically, the City supports DHS’ current proposed language provided in section 212.21(d) as to what constitutes the “receipt” of public benefits to include what *does not* constitute receipt: a person will not be deemed to be in “receipt” of the countable public benefits based on

- (1) having applied for such benefits (on their own or on behalf of another);
- (2) being approved for benefits (for themselves or other) that are to be provided in the future;
- (3) actually receiving the benefits where the benefits are received on behalf of another; and
- (4) assisting another to apply for benefits that are ultimately received by that person. This goes a long way to address the chilling effect.

The City additionally welcomes the Agency’s proposed language regarding factors to consider in the public charge determination and the favorable consideration of the affidavit of support, as well as the detailed discussion of how the COVID-19 pandemic reinforces the importance of a narrow interpretation of inadmissibility based on public charge.

III. The City of Seattle proposes improvements to the NPRM language

In order to mitigate harm and prevent future harm, the City encourages DHS to limit the definition of who would be likely at any time to become a public charge as those likely to become primarily dependent on the government for subsistence as demonstrated by the current receipt and dependence upon either Supplemental Security Income (SSI) or cash assistance for income maintenance under the Temporary Assistance for Needy Families (TANF) program, as a factor in the totality of circumstances and not the only determinant. This is consistent with the interpretation of a public charge for inadmissibility used for over 100 years⁷ and confirmed by the 1999 Field Guidance⁸.

⁷ See Department of Justice, “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 64 Fed. Reg. 28689, May 26, 1999, available at: <https://www.govinfo.gov/content/pkg/FR-1999-05-26/pdf/99-13202.pdf>. (“It has never been Service policy that the receipt of any public service or benefit must be considered for public charge purposes.”). See also Historians’ comment FR 2018-21106 submitted to this NPRM by Torrie Hester, Hidetaka Hirota, Mary E. Mendoza, Deirdre M. Moloney, Mae Ngai, Lucy Salyer, and Elliott Young, available at: <https://www.regulations.gov/document?D=USCIS-2010-0012-5981>. While Congress did not use the term “primarily dependent,” the legislative history shows that a “public charge” was generally defined as an individual housed at a public charitable institution or likely to become an occupant of an almshouse.

⁸ Department of Justice, “Field Guidance on Deportability and Inadmissibility on Public Charge Grounds,” 64 Fed. Reg. 28689, May 26, 1999, available at: <https://www.govinfo.gov/content/pkg/FR-1999-05-26/pdf/99-13202.pdf>.

A. The City asks DHS to exclude all state and local benefits from public charge determination.

The City of Seattle opposes the inclusion of state, Tribal, territorial, or local benefits, including programs providing cash assistance for income maintenance in the definition of public charge, and requests that these be removed from the regulatory text. Programs funded by state and local government—including any cash assistance that they choose to provide—are an exercise of the powers traditionally reserved to the states. We as a municipality have a compelling interest in promoting health and safety, which includes the ability to provide benefits at our own expense without barriers caused by federal policies.

Seattle is among several localities to provide disaster cash to immigrants excluded from federal assistance. In 2020, the City of Seattle created the Seattle Disaster Relief Fund for Immigrants aimed at assisting Seattle’s most vulnerable low-income immigrant community members, especially those who were not eligible for federal stimulus checks from COVID relief legislation or state unemployment insurance based on their immigration status. In June 2021, Mayor Jenny Durkan and the Seattle City Council allocated an additional \$25 million for a direct cash assistance program to “Seattle’s low-income households who have experienced the economic impacts caused by the COVID-19 crisis and those disproportionately impacted by the COVID-19 public health crisis.” Recipients of the 2020 funds were identified as a highly vulnerable population and therefore a priority for 2021 funds. The City of Seattle believes that economic relief for the hardships created by the COVID-19 pandemic should reach everyone regardless of immigration status and will continue to seek out ways to support undocumented community members and those who are otherwise ineligible for more established forms of relief.

Similarly, Washington State created a relief fund in 2020 known as the Washington COVID-19 Immigrant Relief Fund to support undocumented immigrants living in Washington. The Governor and the legislature successfully allocated \$127.6 million to the WA COVID-19 Immigrant Relief Fund between August 2020 and February 2021. The Washington State Legislature has allocated and approved an additional \$340 million to continue the program through June 30, 2023.

Applicants for immigration benefits should not be punished for the new and innovative programming of the state or municipality in which they live. Instead, DHS should limit the consideration to federal benefits to create a single, uniform, federal standard. State and local programs can be dynamic and variable, with new proposals emerging each year. King County, in which Seattle is situated, recently completed a pilot program to provide guaranteed basic income⁹. The State of Washington is among several states exploring alternatives to unemployment insurance for excluded workers. States and localities, including the City of Seattle, research and test new ways to support their residents and workers. City departments, elected officials, and community members continue to envisage and advocate for new ways to uplift all Seattle residents regardless of immigration status.

The rights of states and localities to support their constituents as they see fit creates a dizzying array of benefits for which noncitizens may be eligible that vary by city and state. With the inclusion of state and local benefits in the proposed rule, both applicants and adjudicators will encounter difficulty in determining whether a local or federal program is included in the new public charge test. **The City urges DHS to eliminate all local and state benefits from consideration for public**

⁹ See <https://medium.com/@devonirwhite/guaranteed-basic-income-pilot-in-south-king-county-washington-75edbb1401f7>

charge, as the inclusion of such programs will affect enrollment in City of Seattle, King County, and Washington State programs which support the health, wellbeing, and rights of all Seattle residents. The City urges DHS to limit the public benefits affecting public charge to SSI and TANF, and especially to keep local and state programs out of the determination to ensure localities can be free to govern as they choose within their jurisdiction and without fear that new programs will result in unintended negative immigration consequences.

Moreover, the limiting public benefits influencing public charge to SSI and TANF will greatly decrease confusion and the chilling effect for those who are eligible for public assistance but fearful it will negatively affect their immigration options. If instead local and state programs are included in the public charge determination, immigrants and their advocates will have to wade through the intricacies of public benefits programs to determine if an applicant is at risk for a public charge determination. This confusion alone will deter immigrants from accessing public assistance and could lead advocates to discourage their clients from accessing public benefits for fear of public charge. Through the City's recent outreach efforts for the 2020 and 2021 disaster relief fund programs, much effort was made to educate eligible community members about the funds' exclusion from public charge considerations as this was the most frequently asked question about the program. DHS must eliminate state and local programs from the public charge determination to alleviate the time and resources expended by localities to assuage fears about public charge when accessing local programs.

Further, DHS must differentiate other federal, state, and local programs from federally funded-cash assistance such as TANF or SSI. It will be critical to provide language in the regulatory text, and not only the preamble, which makes clear that the public charge assessment is narrowly focused on two programs that provide cash assistance for income maintenance: TANF and SSI. We strongly recommend that the regulatory text explicitly exclude the following programs and provide a non-exclusive list of examples.

- State, tribal, territorial, or local cash benefit programs for income maintenance ("General Assistance").
- Special purpose cash (e.g., childcare assistance, energy assistance such as LIHEAP, rental assistance, crime victim compensation/restitution, and in Washington State, the Housing and Essential Needs (HEN) Referral Program¹⁰).
- Financial assistance targeted to aid specific populations such as survivors of human trafficking or crime.
- Disaster assistance such as Individual Assistance Under the Federal Emergency Management Agency's (FEMA) Individuals and Households Program and other disaster assistance provided by state, Tribal, territorial, or local governments.
- Pandemic cash assistance such as federal, state, local, tribal, or territorial cash assistance, of which the City of Seattle launched two such programs in the past two years¹¹. This also includes Economic Impact Payments, state Pandemic Emergency Assistance Funds, Paycheck Protection Act assistance, or other types of public health relief payments.
- Non-cash services under TANF and short-term non-recurring benefits under TANF as defined at 45 CFR 260.31(b)(1).

¹⁰ See <https://www.dshs.wa.gov/esa/community-services-offices/housing-and-essential-needs-hen-referral-program>

¹¹ See <https://welcoming.seattle.gov/city-of-seattle-provides-9392-cash-assistance-grants-to-income-eligible-families-through-the-seattle-relief-fund/> and <https://welcoming.seattle.gov/city-of-seattle-provides-over-3700-grants-through-disaster-relief-fund-for-immigrants/>

- Earned cash benefits (e.g., state unemployment insurance or similar programs, veterans benefits, social security payments, Title II Social Security disability payments, government pensions).
- Tax-related benefits (e.g., child tax credit, earned income tax credit, economic impact payments, any other tax credit or reduction, and similar state or local programs).
- Programs that provide temporary, universal or “guaranteed” income to a targeted or selected group of people. The very nature of these programs is to raise the income of the community across the board and not to address individual needs or personal circumstances.
- Programs that provide non-means tested payments such as the Alaska Permanent Fund Dividend or a broad stimulus payment provided outside of the tax system.

Without this clarity that local and state programs are excluded from the public charge determination, confusion and the chilling effect will harm Seattle residents.

B. The City requests all mentions of Medicaid be removed from public charge consideration.

Beyond the exclusion of city and state programs, the City urges DHS to exclude from the public charge determination anything related to Medicaid. Including any Medicaid coverage as related to long-term institutionalization causes confusion and contributes to the chilling effect. The best way to mitigate the chilling effect that has occurred in relation to the 2019 rule change is to exclude Medicaid completely. Because public charge is a forward-looking test, it is difficult to provide clear messages to people who need Medicaid that their enrollment for non-institutional purposes now will not be used to indicate that they will rely on Medicaid should they need long-term care in the future. Families may forgo accessing necessary health care because of fear of affecting the whole family’s immigration status.

Medicaid is very important to several City of Seattle programs involving legal services to immigrants and refugees, as proof of Medicaid receipt is sufficient evidence to qualify for a fee waiver for U.S. Citizenship and Immigration Services (USCIS) applications. Medicaid is one of the most common benefits accessed by clients of OIRA’s New Citizen Program (NCP) in which receipt of public benefits is a necessary requirement for a portion of program participants. During the period of 2017 to 2019, NCP partner agencies anecdotally reported clients disenrolling or not wishing to enroll in Medicaid and other benefits for fear of public charge. This chilling effect was seen throughout the Seattle area at the time¹² and has continued to have ramifications. Including any Medicaid program in the public charge determination will continue to have chilling effects.

Medicaid disenrollment has been an ongoing concern for many of the 71,500 Seattle adults who were enrolled in Washington’s Medicaid program as the Trump era public charge policies emerged¹³. Public Health – Seattle & King County data shows that insurance coverage helps keep families stable and leads to a vibrant and strong local economy. Parents miss fewer days at work. Pregnant women are more likely to seek prenatal care, leading to improved birth outcomes. And families with access to preventive care are less likely to face the financial catastrophes associated with delayed care.

¹² See [As Trump considers penalties, Seattle-area immigrants turn down public benefits they’re entitled to claim | The Seattle Times](#)

¹³ Public Health - Seattle & King County; Assessment, Policy Development & Evaluation Unit, November 2018.

Medicaid is the primary payer of long-term care in the U.S. and covers 6 in 10 nursing home residents.¹⁴ Many people living in the U.S. will one day rely on Medicaid for their long-term care needs. Of the 1.4 million people that rely on nursing homes, about 836,000 people or 2.6% of people in the U.S. live in nursing homes paid for by Medicaid.¹⁵ Seattle is home to 17 nursing homes and dozens of adult family homes that accept Medicaid.¹⁶ It is beyond the scope of the City and most nonprofit service providers to determine which portion of Medicaid covered services would fall under the category of long-term institutionalization to advise community members on the potential immigration ramifications of accessing care. **For this reason, we urge DHS to remove long-term institutionalization from its consideration for public charge.**

C. The City encourages DHS to mitigate the harm done from the previous public charge rule by clarifying who is not at risk for public charge determination.

The proposed language of the rule enables the City and its partner agencies to clearly communicate to immigrant communities that applying for benefits and receiving benefits on behalf of qualified family members will not cause them to become a public charge, which will in turn allow them to apply for and prove eligibility for City-sponsored programming such as the NCP. DHS should go further than clarify in the first part of its definition of “receipt” that actual issuance of the countable benefit is necessary so that it cannot be misinterpreted. Additionally, the second part of the definition should also include common words that do not necessarily equate to receipt, such as “payee” or “representative payee,” “head of household,” or “household member” receipt “on behalf of.” Finally, we urge the Agency to include a non-exclusive list of examples of what does not count as receipt of benefits such as “child only” TANF cases; and also “serving as the representative payee” for someone under the SSI program.

The City shares DHS’ concerns about the potential negative effects of the public charge policy on children. We suggest the following ways to mitigate these effects.

First, we encourage DHS to clarify that receiving public benefits on behalf of a child will not be considered in a parent’s public charge determination. This is necessary to ensure children in immigrant families receive the public benefits for which they are eligible, the same as other children, and are not excluded from access due to lingering fears about eligibility for immigration benefits.

Second, USCIS should provide guidance to its adjudicating officers that when considering the totality of circumstances. It is normal for children to be dependent on their family and school for support, and that their age or receipt of public assistance now is not indicative of their ability to contribute to their household and community when they are of age. While this may seem to be common sense,

¹⁴ Kaiser Family Foundation, Medicaid’s Role in Nursing Home Care, 2017, available at <https://files.kff.org/attachment/Infographic-Medicoids-Role-in-Nursing-Home-Care>.

¹⁵ 1,347,600 million people lived in nursing homes out of a total population of 323,071,755 people in 2016, which is equal to 4% of people in the U.S. relied on nursing homes in 2016. National Center for Health Statistics, Vital and Health Statistics, Long-term Care Providers and services Users in the United States, 2015-2016, available at: https://www.cdc.gov/nchs/data/series/sr_03/sr03_43-508.pdf. World Bank, Population total, United States, 2016, available at: <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=US>. 62% of people in nursing homes have care paid for by Medicaid, or about 836,000 of 323,071,755 or 2.59% of people in the US are in nursing homes paid for by Medicaid. Kaiser Family Foundation, Medicaid’s Role in Nursing Home Care, 2017, <https://files.kff.org/attachment/Infographic-Medicoids-Role-in-Nursing-Home-Care>

¹⁶ See <https://www.dshs.wa.gov/altsa/residential-care-services/long-term-care-residential-options>

this clarification and guidance is needed to ensure officers do not erroneously interpret current receipt of benefits by a child as an indication that they will be unable to earn income in the future. If even a few children are determined to be inadmissible due to public charge, this information will get out to immigrant families and will increase fears about receiving public benefits for children.

IV. The ongoing and pervasive effects of the COVID-19 pandemic in Seattle and throughout the country reinforce the need for a narrow interpretation of public charge.

The Trump policy took effect just weeks after the declaration of the public health emergency related to the COVID-19 pandemic and has amplified the pandemic's health and economic harm. Even prior to the onset of COVID-19, DHS received comments about the public health implications of the chilling effects from the 2019 Final Rule: "Commenters on the 2018 NPRM expressed concerns that the proposed rule would 'make immigrant families afraid to seek healthcare, including vaccinations against communicable diseases, and therefore, endanger the U.S. population,'" 87 Fed. Reg. at 10596. In the City of Seattle's 2018 public comment attached here as an appendix, we offered evidence of the public health implications of the rule's chilling effects locally. In this NPRM, DHS now admits: "In the 2019 Final Rule, DHS did not directly address commenters' concerns that a loss of trust in government healthcare services might hamper the government's ability to respond to a novel disease outbreak," 87 Fed. Reg. at 10596.

There are strong public health and national interest rationales for ensuring that all individuals access COVID-19 testing, treatment, and vaccination, including via Medicaid coverage, without any chilling effects from fears about impact of one's immigration status. The City of Seattle believes in equitable access to healthcare and engaged in a multifront strategy for COVID-19 testing and vaccination, focusing especially on people of color and our most vulnerable residents. The City worked with local partners to:

- Open and maintain multiple free testing sites;
- Host dozens of vaccination pop up clinics;
- Run ongoing vaccination sites, including one at Lumen Field; and
- Administer hundreds of thousands of vaccinations, making Seattle one of the most vaccinated major cities in the country.

Throughout the height of the COVID-19 pandemic, the City had to expend major efforts to combat fears around public charge and the government's motives in encouraging public health measures. At a time when public health needs required government initiatives for testing, vaccines, and healthcare, the 2019 public charge rule increased fear and distrust in government and confusion around access to testing and care. OIRA received a significant number of inquiries via phone calls, emails, and social media messengers from residents about whether receiving a COVID-19 test or vaccine would impact their ability to become a U.S. citizen. The questions from the community members were so substantial, the City of Seattle had to include messaging on all its collateral informing residents that "Vaccines are available regardless of immigration status and will not limit ability to become a U.S. citizen."¹⁷

This fear extended beyond access to healthcare. We have learned through COVID-19 about the inter-relatedness of access to stable housing and to affordable and nutritious food to maintaining one's health and limiting one's risk of exposure to COVID-19. For hundreds of thousands of Americans who have lost their jobs, closed their businesses, been unable to pay their rent, or otherwise are facing financial hardships, accessing public benefits such as SNAP or public housing have been vital to maintaining their own health and safety, as well as the health and safety of their families and communities. The prior

¹⁷ See <http://seattle.gov/covid-19/vaccinations>

USCIS publications under the 2019 Final Rule failed to address how the receipt of SNAP and public housing benefits related to COVID-19, for example due to loss of employment, income, or housing, would be exempted from a public charge determination. Accordingly, there are strong public health and national interest rationales for ensuring that all individuals are able to access needed public benefits such as SNAP and public housing without any chilling effects from fears about impact of one's immigration status.

Given the fact that the current declaration of a national public health emergency has been extended to at least April 16, 2022 (as continuous extensions have occurred since the first declaration on January 31, 2020), the unpredictable and unprecedented nature of this current COVID-19 pandemic provides additional public health and national interest rationales for a narrow interpretation of inadmissibility based on public charge that excludes receipt of Medicaid alongside the exclusion of SNAP and public housing benefits. These additional rationales are not limited to the specifics of the current COVID-19 pandemic but are applicable to future novel disease outbreaks as well as other local, regional, and national emergencies and disasters.

DHS should specifically state in the final rule and in outreach materials that the definition of public charge does not apply to public health assistance for immunizations with respect to vaccine preventable diseases and for testing and treatment of symptoms of communicable diseases whether symptoms are caused by a communicable disease. Without such a clear statement, there will likely continue to be unnecessary fear and confusion among immigrants subject to public charge and their LPR or U.S. citizen family members to whom such changes do not apply¹⁸. This could lead to lower vaccination rates, which the City of Seattle has taken such efforts to increase, putting both immigrants and U.S. citizens at greater risk for infection by vaccine-preventable diseases. Washington state law requires that children admitted to public or private school be immunized against a host of communicable diseases to prevent their spread. Any potential chilling effect on immunizations, particularly for school-aged children, will not only contravene state law and policy but will also erode the ability of children and their families to gain self-sufficiency through educational attainment.

V. The City urges DHS to invest in proactive and consistent outreach and education to lift the full weight of that effort from localities

The damage done by the Trump administration in its wholesale strategy to perpetuate the message that immigrants should not access public benefits is far reaching and long lasting. The effort to refute this message must be proactive, multipronged, and well resourced.

A. DHS should provide informational and outreach materials to the top languages spoken in the United States.

The City of Seattle is committed to providing accurate information to immigrant and refugee residents about the public charge rule. To do this is very time and resource intensive. DHS should create materials clearly communicating the new public charge rule in multiple languages. The costs associated with translating materials into Seattle's top tier languages, as well as the staff time needed to simplify complex topics into language that can more easily be translated, would be alleviated if DHS were to create these materials from the start.

¹⁸ <https://www.sciencedirect.com/science/article/pii/S2666623521000039>

For example, in 2018, the City of Seattle conducted a preliminary review of just ten City programs that income-eligible immigrant Seattleites may qualify for (various childcare/preschool/early learning programs, the Seattle Utility Discount Program, a local food assistance program known as Fresh Bucks, a Home Repair Program, and the Weatherization Program).¹⁹ We determined that it would cost the City over \$290,000 in updating and reprinting collateral, updating website information, printing and sending letters, and in-person outreach. This does not include salary costs for outreach staff, consultants, translator/interpreter costs, and media outreach, which added in would have approximately triple the cost of informing immigrant residents about this substantial change. It is possible to extrapolate this cost of \$290,000 for just ten programs for a mid-sized city like Seattle to the county, across the state, and across the nation. While the changes associated with this new proposed rule are minimal compared with the massive overhaul of public charge launched in 2018, DHS can do much to alleviate the administrative burden placed on cities and immigrant-serving organizations by providing in-language materials.

DHS should create simplified fact sheets and outreach materials for distribution to benefits-granting agencies, organizations that work with immigrants, and directly to immigrant communities themselves, and should translate these materials into at least the top 20 languages spoken nationally. This would allow the City to instead use resources on community education and translation into additional languages. DHS should work with benefit granting agencies, community-based organizations serving immigrants and immigrant stakeholders themselves to ensure the language used in these materials is clear, culturally relevant, and easy to understand.

Key messages to include in these materials include the following:

- The Biden Administration has permanently ended the Trump public charge policy, and a new public charge policy is in effect.
- Accessing local City and County services and financial aid programs will not affect your immigration status or applications.
- Only actual receipt of SSI and TANF are considered in the public charge test.
- Even if you use SSI or TANF, that does not automatically mean that the government will decide you are likely to become a public charge. The government must examine the circumstances of your life in making that decision.
- Many categories of immigrants are exempt from public charge, including humanitarian immigrants like asylees, refugees, and survivors of trafficking or crime; special immigrant juveniles; lawful permanent residents who are renewing their green card or applying for citizenship; and many others.
- COVID testing, vaccination, and care won't affect your immigration status or any immigration status you may apply for in the future.
- Getting help with health care, food, education, job training, or housing also will not affect your immigration status or applications.
- While this rule is in place, you can access health care, food, education, job training, and housing assistance without immigration consequences.
- Benefits received by your children or other members of your household won't affect your own immigration status or applications.

¹⁹ "Cost to Update Outreach Materials for Public Charge Deportability Changes for 10 Local Programs."

- If you have an immigrant family member, let them know they can seek health care, food, or housing assistance without fear of immigration consequences.²⁰

The following are types of materials that DHS can provide, which states, localities and community groups could adjust to reach their specific immigrant communities:

- Sample language for fact sheets
- Training materials
- Social media posts and graphics
- SMS or other direct message application language
- Mailings
- Flyers and posters, with the DHS and benefits granting agencies' "seal" on them
- Sample language for states to include on their applications forms and public-facing websites (for example, DHS and the United States Department of Agriculture (USDA) provided a sample chart for states to include on its forms and agency websites clarifying that applying or receiving SNAP is not considered in a public charge determination)²¹

B. DHS should launch a public relations campaign through social media and ethnic media channels.

Immigrant communities go to trusted community members and media channels to get their information, often in a language other than English (LOTE). Research shows that LOTE television news, social media, and friends and family are the sources of information immigrant communities trust the most.²² In order to communicate the new public charge rule effectively, DHS must communicate to immigrant communities through a campaign in multiple languages that uses all available communications channels, including social media and ethnic traditional media.

Additionally, immigrant families tend to trust government agencies for information.²³ High-level administration officials from DHS and benefits-granting agencies should be visible messengers in media and posts to communicate the new rule, including in various languages where possible, and federal agencies should encourage states to undertake similar media campaigns. Local government agencies, as well as community-based organizations can be helpful outreach and engagement partners. For example, the City of Seattle's Ethnic Media Program helps ensure that City departments include an ethnic media strategy in outreach to immigrant and refugee residents and to this end, tracks ethnic media outlets serving Seattle area immigrant and refugee communities. Where possible, City of Seattle staff have met with representatives of each outlet, ensuring a comprehensive and current database of newspapers, television networks, radio stations, broadcast programs, and news websites. USCIS is welcome to use such publicly available resources, such as the City of Seattle Ethnic Media Directory, in their campaign to clarify public charge to immigrant communities: https://seattle.gov/documents/Departments/OIRA/20220405_Ethnic_Media_Directory.xlsx

²⁰ Research shows that 47% of U.S.-born family members in mixed status families believe that applying for assistance programs could cause immigration problems. Thus, U.S. citizen family members in mixed-status families are important targets to let their family members know they can safely access public benefits. *Public Charge was Reversed, But Not Enough Immigrant Families Know*, *supra* note 54.

²¹ See *Joint Letter on Public Charge 2022*, *supra* note 53.

²² *Public Charge was Reversed, But Not Enough Immigrant Families Know*, *supra* note 54.

²³ *Id.*

DHS and partner agencies should provide training materials and support to state and local agencies, call center staff, local outreach partners, and immigrant-serving organizations so that their personnel have updated and accurate information about the new public charge rule. DHS and partner agencies should share responses to questions received from the field and use those to further refine training and outreach materials.

C. DHS should provide funding to trusted community organizations that can provide outreach and education to immigrants and their families.

Research shows and the City of Seattle knows from experience that community organizations are trusted sources of information for immigrant families.²⁴ DHS should provide funding for these organizations so that trusted community leaders can share information about the new public charge rule directly to families and in public settings like in the media and on a one-on-one basis. The United States Department of Health and Human Services (HHS) recently announced outreach grants available to a wide range of organizations, including state/local governments, tribal entities, safety net providers, nonprofits, schools, and organizations that use community health workers, community-based doula programs, and more may apply for up to \$1.5 million over three years to connect eligible people to Medicaid or CHIP under the grants.²⁵ DHS could provide similar grants for organizations to educate people about the final public charge policy. Funding for local community organizations would further alleviate the burden of communicating this important rule change from the City of Seattle and other local, regional, and state entities responsible for supporting public health and constituent wellbeing. As outlined above, outreach and engagement strategies at the local level can be quite high, especially when incorporating language access and ethnic media outreach campaigns.

V. Conclusion

For the reasons detailed above, the City of Seattle supports the proposed rule for determining inadmissibility based on “public charge,” and encourages DHS to modify the rule further to ensure a narrow and administrable interpretation.

The City has an economic, public health, and moral interest in seeing all our communities thrive. As such, everyone in those communities must be able to stay together and get the care, services, and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Joaquin Uy at joaquin.uy@seattle.gov to provide further information.

Sincerely,



Mayor Bruce Harrell

Enclosure

²⁴ *Id.*

²⁵ Maggie Clark, Outreach for Pregnant People Included in Latest CMS Grant Funding Opportunity, Georgetown Center for Children and Families, February 22, 2022, available at: <https://ccf.georgetown.edu/2022/02/22/outreach-for-pregnant-people-included-in-latest-cms-grant-fund>



CITY OF SEATTLE

Samantha Deshommes, 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: Inadmissibility on Public Charge Grounds, Notice of Proposed Rulemaking, 83 Fed. Reg. 51114, DHS Docket No. USCIS-2010-0012.

Dear Ms. Deshommes:

The City of Seattle (“City”) submits this comment in response to the proposed rule (“Rule”) published by the Department of Homeland Security (“DHS”) and the United States Citizenship and Immigration Services (“USCIS”) in their Notice of Proposed Rule Making (“NPRM”).

The policies articulated in the proposed Rule will terrify immigrant families, discourage or prevent hard-working people from immigrating, and deter immigrant families, including U.S. citizen children, from seeking the help they need to lead a healthy and productive life.

This updated rule would hurt Seattle in three key ways.

First, the more stringent rule would have a direct, negative impact on tens of thousands of Seattle residents. University of Washington experts estimate that proposed changes to public charge guidelines will directly affect 51,186 immigrants living in Seattle. The proposed changes will also indirectly reach another 33,185 City residents who live in households with someone who is directly impacted, including 10,143 U.S.-born children. The total affected immigrant population would be 84,371, or 64 percent of Seattle’s immigrant population.

Second, this new rule would erode access to health care for those 85,000 residents and hurt our economy. Public Health – Seattle & King County has determined that 10,500 children in Seattle, regardless of their status, could be negatively affected by the proposed public charge definition because their parents may be forced to choose between enrollment in important basic needs programs or reuniting with an immigrant family member. Implementing a rule, with the awareness that it may negatively impact the health of so many children, is unconscionable. Strong economies and talented workforces start with healthy individuals and healthy communities. That means providing access to health care benefits, including Medicaid.

Third, this rule would cut off the potential for millions in tax revenue. Immigrant households account for \$27.5 billion in spending power for Washington State, and immigrants living in the Seattle Metropolitan Area pay \$8 billion in taxes annually.



CITY OF SEATTLE

Like so many things the current administration implements, the rule appears to attempt to solve a problem that does not actually exist. Time and again, we have seen this administration continue their cruel, divisive, and unlawful attacks on our immigrant and refugee neighbors. The proposed changes to the public charge determination are just one more example.

For all these reasons, the Department of Homeland Security (DHS) should immediately withdraw its current proposal and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families in the future.

As with prior generations, today's immigrants are tomorrow's American citizens who should have the chance to contribute to the economic, cultural, and civic life of Seattle – and our nation.

Sincerely,

Mayor Jenny A. Durkan

Council President Bruce Harrell

Councilmember Sally Bagshaw

Councilmember M. Lorena González

Councilmember Lisa Herbold

Councilmember Debora Juarez

Councilmember Rob Johnson

Councilmember Teresa Mosqueda

Councilmember Mike O'Brien

Councilmember Kshama Sawant

Submitted via www.regulations.gov

RE: Inadmissibility on Public Charge Grounds, Notice of Proposed Rulemaking, 83 Fed. Reg. 51114, DHS Docket No. USCIS-2010-0012.

The City of Seattle (“City”) submits this comment in response to the proposed rule (Rule) published by the Department of Homeland Security (“DHS”) and the United States Citizenship and Immigration Services (“USCIS”) in their Notice of Proposed Rule Making (“NPRM”).

The Rule, if enacted unchanged, will have indirect and direct negative impacts to immigrants living in Seattle, to the overall quality of life and wellness standards of Seattle, and to the government and economic prosperity of the City due to:

- Decreased utilization of primary and preventive health care services, as well as mass disenrollment from government benefits and City-funded social services, coupled with increased utilization of costly emergency services.
- Negative repercussions to all Seattle residents, regardless of immigrant and citizenship status.
- Increased costs to the City and other financial and economic impacts.

The City of Seattle strongly opposes modifying the rules for determining inadmissibility based on “public charge.” DHS should immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families in the future.

I. Introduction

The estimated total population of Seattle is 730,400 people¹, and of those, the U.S. Census estimates that 18 percent, or around 131,472 individuals, are foreign-born². Of these immigrants, the majority contribute to the city’s economy in a number of ways, whether by starting small and large businesses, paying taxes, or working in one of the many industries that support both the local and national economies. According to the non-partisan thinktank New American Economy, immigrant household incomes accounted for \$29 billion in household income and \$8 billion in taxes paid for the Seattle Metropolitan Area. Additionally, in 2018, the total operating budget of the City was \$6.01 billion, and the total capital budget was \$1.11 billion³.

Due in part to the above statistics, and because Seattle is a welcoming city, the City of Seattle has made great efforts to protect our immigrant and refugee workers and residents. Such efforts include executive

¹ See https://www.ofm.wa.gov/sites/default/files/public/dataresearch/pop/april1/ofm_april1_population_final.pdf

² See <https://www.census.gov/quickfacts/fact/table/seattlecitYWashington,US/PST045217>

³ See <https://openbudget.seattle.gov/#!/year/default>

orders⁴, resolutions⁵, and ordinances⁶ to ensure immigrants feel welcome and safe in the city. The City has also funded social programs to help income-eligible residents with what we consider to be basic needs. Additionally, the City believes it is the responsibility of our government to assist all Seattleites, including taxpayers, residents, and workers, especially when an individual or family encounters an unforeseen crisis or catastrophic emergency situation. In this role, the City manifests its core value of providing infrastructure, goods, and services for all residents, but especially for vulnerable, disabled, and marginalized people who cannot individually provide for themselves.

To this end, the City created the Office of Immigrant and Refugee Affairs (OIRA) in 2012 to improve the lives of Seattle's immigrant and refugee families. In line with the City's values of social justice and equity, OIRA works to strengthen immigrant and refugee communities by engaging them in decisions about the City's future and improving the City's programs and services to meet the needs of all constituents. We believe supporting immigrants creates a stronger future for our nation. As with prior generations, today's immigrants are tomorrow's U.S. citizens, who will be fully engaged in the economic, cultural, and civic life of our society, both locally and nationally.

II. The Rule contains flawed rationale and proposes a solution for a purported problem that does not exist.

A. Immigrants should not be penalized for using a benefit that is meant to be a temporary support for dire situations.

Under Section 212(a)(4) of the Immigration and Nationality Act (INA), an individual seeking admission to the United States or seeking to adjust status to that of lawful permanent resident (green card holder) is inadmissible if the individual, "at the time of application for admission or adjustment of status, is likely at any time to become a public charge." This is currently interpreted as whether the individual is *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.

However, the Rule would establish a fundamentally new and expanded definition of public charge: whether the individual is *likely at any time in the future to receive one or more public benefits*. Under this proposed definition, DHS would find an individual inadmissible as a public charge if DHS determines that the person is *likely at any time* in the future to receive one or more public benefits, as defined in 8 CFR 212.21(b), in an amount or for a duration exceeding the thresholds described (FR 51174).

U.S. government programs, such as Temporary Assistance for Needy Families ("TANF"), Medicaid, Supplemental Nutrition Assistance Program ("SNAP," also known as "food stamps"), and others, were instituted to be *temporary* supports for U.S. residents. Many advocates refer to these programs as "safety net" programs, indicating that residents are meant to use them in the event of a catastrophic or

⁴ See http://murray.seattle.gov/wp-content/uploads/2016/11/Executive-Order-2016-08_Welcoming-City.pdf

⁵ See <http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=&s3=&s2=&s4=Ordinance+121063&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F~public%2Fresny.htm&r=7&f=G>

⁶ See <http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?d=CBOR&s1=114436.cbn.&Sect6=HITOFF&l=20&p=1&u=/~public/cbor2.htm&r=1&f=G>

emergency situation, or “a fall.” These programs exist to catch families and individuals like a “safety net,” so they can soon be back to stability and hence, off of these programs. These programs were also intended to help prevent individuals from falling into permanent poverty and chronic homelessness, a situation that is not only harmful to the family, but also far costlier to governments, as evidenced by a multitude of studies.^{7 8 9}

U.S. Census Bureau data supports the temporary nature of these benefits for residents. According to a May 2015 study, of the one-in-five Americans who participated in a program like Medicaid or SNAP from 2009 through 2012, the Census Bureau reported that 56 percent stopped participating within 36 months, while 43 percent lingered on the programs between three and four years. Nearly one-third quit receiving benefits within one year.¹⁰ **It therefore seems wholly unfair for USCIS to in essence permanently punish someone who will likely use a public benefit for only a temporary period of time.** Ultimately, immigrants who come off of public benefits end up paying taxes, spending money, and contributing to the U.S. economy. In fact, according to 2016 American Community Survey (ACS) data, immigrants paid an estimated \$223.6 billion in federal taxes in 2014. This includes \$123.7 billion in Social Security tax and \$32.9 billion in Medicare tax. On the state and local level, immigrants paid \$104.6 billion in taxes. The combined contribution of immigrants in 2014 was \$328.2 billion in taxes. The Rule is fundamentally shortsighted for cutting off the potential for millions in tax dollars, and is mean-spirited for penalizing immigrants for the temporary use of a benefit that leads to greater stability, increased tax revenue, and other contributions in the future.

An ongoing study by the University of Washington and the Workforce Development Council of Seattle-King County¹¹ further disputes the purported self-sufficiency rationale behind the Rule. The study demonstrates that a full-time, minimum wage job is usually not sufficient to meet the basic needs of various family configurations in Washington State. The Self Sufficiency Standard for Washington State for 2017 shows that even at the minimum wage, work supports – such as SNAP, Medicaid, housing assistance, and child care assistance – can help families meet their basic needs while they work towards self-sufficiency. This study bolsters the notion that work supports serving as necessary assistance to working families for attaining self-sufficiency is much more appropriate than the Rule’s purported purpose of self-sufficiency.

B. DHS failed to support their reasoning for changing the public charge criteria.

The authors of this Rule have failed to substantiate their reasoning for changing the public charge definition. From the Rule: “[w]hen developing the proposed rule in 1999, INS consulted with Federal

⁷ Wogan, J.B., “Study: Housing the Homeless Can Drastically Cut the Government’s Health Care Costs,” December 6, 2017, Governing. Available at <http://www.governing.com/topics/health-human-services/gov-housing-homeless-health-costs-rand-study.html>

⁸ Pomeroy, Stephen, “The Cost of Homelessness: Analysis of Alternate Responses in Four Canadian Cities,” March 2005. Prepared for the National Secretariat on Homelessness. Available at <https://www.homelesshub.ca//resource/cost-homelessness-analysis-alternate-responses-four-canadian-cities>

⁹ Culhane, Dennis P., “Public Service Reductions Associated with Placement of Homeless Persons with Severe Mental Illness in Supportive Housing,” January 1, 2002, Housing Policy Debates. Available at https://works.bepress.com/dennis_culhane/4/

¹⁰ See <https://www.census.gov/newsroom/press-releases/2015/cb15-97.html>

¹¹ Pearce, Diana M., “The Self-Sufficiency Standard for Washington State 2017,” The Workforce Development Council of Seattle-King County, September 2017. Available at http://selfsufficiencystandard.org/sites/default/files/selfsuff/docs/WA2017_SSS.pdf

benefit granting agencies such as the Department of Health and Human Services (“HHS”), the Social Security Administration (“SSA”), and the Department of Agriculture (“USDA”)” (FR 51133). At the time, all agencies determined that cash benefits and long-term institutionalization were “the best evidence of whether an individual is relying primarily on the government for subsistence.” Although the United States Immigration and Naturalization Service (“INS”) did not publish a final rule conclusively addressing these issues, the facts of the determination are still a matter of public record. **And nowhere in the Rule does USCIS provide updated information from HHS, SSA, and USDA that supports this new proposed public charge definition.**

C. The Rule clumsily attempts to outline a solution for a non-existent problem: Immigrants do not disproportionately use federal benefits and immigrant use of benefits is not a drain on taxpayer dollars.

Additionally, the Rule appears to attempt to solve a problem that does not actually exist. The leaked draft version of the 2017 White House executive order pertaining to public charge states, “[H]ouseholds headed by aliens (legal and illegal) are much more likely than households headed by native-born citizens to use federal means-tested public benefits.” It goes on to state: “The Executive Order fulfills several key campaign promises related to immigration by, among other things: (1) directing the Director of the Office of Management and Budget to compile a report detailing how the federal government will save \$100 billion by ensuring that aliens receive only the public benefits that they are eligible to receive...”¹² Additionally, the later Rule on public charge states: “For the proposed rule, DHS estimates that the total reduction in transfer payments from the federal and state governments would be approximately \$2.27 billion annually due to disenrollment or foregone enrollment in public benefits programs by aliens who may be receiving public benefits” (FR 51117). Both public charge documents (the draft executive order and the Rule) essentially assert that immigrants use public benefits more than non-immigrants and that this usage is a significant cost to the U.S. budget. However, the conservative thinktank Cato Institute, in their May 2018 study,¹³ found that immigrants are overall far less likely to consume federal public benefits than native-born Americans. When immigrants do receive these benefits, they generally consume a lower dollar value of benefits than native-born Americans. Immigrants who meet the eligibility thresholds of age for the entitlement programs or poverty for the means-tested programs generally have lower use rates and consume a lower dollar value relative to native-born Americans. **The per capita cost of providing public benefits to immigrants is substantially less than the per capita cost of providing these same public benefits to native-born Americans.**

Further evidence exists against the Rule’s rationale of saving taxpayer dollars in that USCIS has already implemented a legally binding mechanism to ensure that a sponsor, rather than all taxpayers, serves as the financial “safety net” should an immigrant require financial support. Most petitioners in family-based immigration cases and some employment-based cases are required to sign Form I-864, Affidavit of Support Under Section 213A of the INA. In enacting this change, Congress determined that: “This change in law is intended to ensure both that the affidavits of support are legally binding and that

¹² See <http://apps.washingtonpost.com/g/documents/national/draft-executive-orders-on-immigration/2315/>

¹³ Nowrasteh, Alex and Orr, Robert, “Immigration and the Welfare State: Immigrant and Native Use Rates and Benefit Levels for Means-Tested Welfare and Entitlement Programs,” Cato Institute, May 10, 2018. Available at <https://www.cato.org/publications/immigration-research-policy-brief/immigration-welfare-state-immigrant-native-use-rates#full>

sponsors—rather than taxpayers—are responsible for providing emergency financial assistance during the entire period between an alien’s entry into the U.S. and the date upon which the alien becomes a U.S. citizen.”¹⁴

The Rule provides no explanation as to why Form I-864 is an ineffective process for ensuring that immigrants have a back-up plan should they experience financial hardship. It seems the Rule attempts to create a 183-page, 156,211-word document to solve problems that are either fictional or that already have a functional, legally-binding solution.

III. The Rule will result in decreased utilization of primary and preventive health care services as well as substantive disenrollment from government benefits causing significant, widespread, and permanent harm to children, families, and communities.

The City assumes three scenarios regarding the proposed Rule’s effects on immigrant communities:

Scenario A: Immigrants who are subject to the public charge test and have one or more heavily-weighted negative factors (e.g. elderly or disabled) and are not able to take action (such as disenrollment from public benefits) sufficient to prove to immigration officials that they are not likely to become public charges.

Scenario B: Immigrants who may be subject to the public charge test and are currently using public benefits programs choose to disenroll from those programs.

Scenario C: Immigrants who are not subject to (e.g., immigrants residing in the U.S. with humanitarian visas, such as refugees, asylees, etc.) or will not likely be subject to the public charge test (e.g., lawful permanent residents) and are currently using any local and/or federal public benefits choose to disenroll from those programs. This population also includes the same population who may not currently be enrolled, but may choose not to enroll in a local and/or federal benefit they may legally qualify for, despite needing the benefit as a temporary support. This scenario highlights what many are calling the “chilling” effect of the Rule on immigrant communities.

The City finds the above scenarios as plausible, especially Scenario C, because when the previously referenced executive order with similar “public charge” language became available to the public in February 2017, we received reports from both immigrants living within Seattle and staff from immigrant-serving non-governmental organizations that offer various service programs that immigrants themselves started refusing local and federal benefits that they qualify for and also requested case managers to disenroll them from social programs that they are eligible for. This a trend that local media outlets continue to report on, especially given the information about the NPRM regarding public charge.^{15 16}

¹⁴ *Report of the Committee on Economic and Educational Opportunities, Rept. 104-75 (Mar. 10, 1995), at 46.*

¹⁵ Shapiro, Nina, “As Trump considers penalties, Seattle-area immigrants turn down public benefits they’re entitled to claim,” Seattle Times, August 12, 2018. Available at <https://www.seattletimes.com/seattle-news/legal-immigrants-in-seattle-area-alarmed-over-possible-penalties-for-using-benefits/>

¹⁶ Baumgaertner, Emily, “Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services,” New York Times, March 6, 2018. Available at <https://www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html>

All three scenarios have the cumulative effect of deterring immigrant families, most of which include U.S. citizen children, from seeking the help they need to lead a healthy and productive life. The City believes that investing in nutrition, health care, and other essential needs keeps children learning, parents working, families strong, and allows all of us to contribute fully to our Seattle communities. **The policies articulated in the proposed Rule will terrify immigrant families, discourage or prevent hard-working people from immigrating, and deter immigrant families, including U.S. citizen children, from seeking the help they need to lead a healthy and productive life.**

We know that those who are in the immigration system will have to consider whether this rule means they will forgo accessing important resources to avoid risk to their immigration status. With that understanding, Seattle and King County would expect to see decreased utilization of primary and preventive health care services as well as mass disenrollment from both federal and local government benefits. These changes will have a significant negative impact on both the health and economic prosperity of our region, harming entire communities as well as the infrastructure that serves all of us, such as schools, hospitals, and clinics. All of these consequences are identified in the proposed rule itself, under costs; and a substantial body of evidence demonstrates that they are highly significant and damaging.

According to data from Manatt Health,¹⁷ if implemented, this Rule could impact as many as 26 million people in families nationwide, including 269,734 non-citizens and family members in the Seattle Metropolitan Area. Any families with non-citizen members could fear consequences of accessing health care and basic need programs and thus forgo participation altogether.

A. The Rule will have negative health and wellness impacts to both immigrant and citizen families and children.

All scenarios (A, B, and C) mentioned above would result in immigrants living in Seattle disenrolling from or refusing crucial federal supports. Thus, the proposed Rule would cause major harm to the children of immigrant parents, whether they are immigrants or citizens themselves. This is explicitly acknowledged in the cost-benefit analysis of the proposal. Children's well-being is inseparable from their parents' and families' well-being. Children thrive when their parents can access necessary health or mental health care, when their families have enough to eat, and a roof over their heads.¹⁸ Conversely, parents' stress and health challenges impede effective caregiving and can undermine children's development. In states like ours that have chosen to provide Medicaid coverage to all lawfully present pregnant women, the link between parent and child well-being is even more direct: a mother's use of health care during her pregnancy could prevent her from later extending or improving her immigration status.

Not just immigrant children would be harmed by the Rule, citizen-children with immigrant non-citizen parents are a large and growing segment of the U.S. child population. Nearly 16 million citizen-children

¹⁷ "Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard," Manatt Health, October 11, 2018. Available at <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>

¹⁸ "Health Coverage for Parents and Caregivers Helps Children," Georgetown Center for Children and Families, March 2017. Available at <https://ccf.georgetown.edu/wp-content/uploads/2017/03/Covering-Parents-v2.pdf>

under age 18 in the United States—one out of every four children—have one or more parents who are foreign-born.¹⁹

Public Health – Seattle & King County has determined that 10,500 children, regardless of their status, in Seattle could be negatively affected by the proposed public charge definition because their parents may be forced to choose between enrollment in important basic needs programs or reuniting with an immigrant family member (See Appendix A for the full list of calculations). Children in immigrant families are already less likely to secure help due in part to flawed eligibility rules that create barriers for immigrant families.^{20 21} However, all children, including children in immigrant families benefit when they have access to programs and services that promote their development.

The value of access to public benefits has been documented repeatedly. Multiple studies confirm that early childhood or prenatal access to Medicaid and SNAP improves health and reduces reliance on cash assistance.^{22 23 24} Children of immigrants who participate in SNAP are more likely to be in good or excellent health, be food secure, and reside in stable housing. Compared to children in immigrant families without SNAP, families with children who participate in the program have more resources to afford medical care and prescription medications.²⁵ An additional year of SNAP eligibility for young children with immigrant parents is associated with significant health benefits in later childhood and adolescence.²⁶

Children in immigrant families with health insurance coverage are more likely to have a usual source of care and receive regular health care visits, and are less likely to have unmet care needs.²⁷ For instance, children with access to Medicaid have fewer absences from school, are more likely to graduate from high school and college, and are more likely to have higher paying jobs as adults.²⁸ Children whose families receive housing assistance are more likely to have a healthy weight and to rate higher on

¹⁹ Migration Policy Institute tabulations of data from Steven Ruggles, Matthew Sobek, Trent Alexander, et al., "Integrated Public Use Microdata Series: Version 4.0" (Machine-readable database, Minnesota Population Center [producer and distributor], 2011).

²⁰ Broder, Tanya; Moussavian, Avidah; and Blazer, Jonathan, "Overview of Immigrant Eligibility for Federal Programs," National Immigration Law Center, 2015. Available at <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>

²¹ Alden Dinan, Kinsey, "Federal Policies Restrict Immigrant Children's Access to Key Public Benefits," National Center for Children in Poverty, 2005. Available at http://www.nccp.org/publications/pdf/text_638.pdf

²² Carlson, Steven and Keith-Jennings, Brynne, "SNAP Is Linked with Improved Nutritional Outcomes and Lower Health Care Costs," Center on Budget and Policy Priorities, January 17, 2018. Available at <https://www.cbpp.org/research/food-assistance/snap-is-linked-with-improved-nutritional-outcomes-and-lower-health-care>

²³ East, Cloe N., "The Effect of Food Stamps on Children's Health: Evidence from Immigrants' Changing Eligibility," Society of Labor Economists Journal of Labor Economists, September 2, 2016. Available at <http://www.sole-jole.org/17153.pdf>

²⁴ Chester, Alisa and Alker, Joan, "Medicaid at 50: A Look at the Long-Term Benefits of Childhood Medicaid," prepared for the Georgetown University Health Policy Institute Center for Children and Families, July 2015. Available at https://ccf.georgetown.edu/wp-content/uploads/2015/08/Medicaid-at-50_final.pdf

²⁵ Children's Health Watch, "Report Card on Food Security and Immigration: Helping Our Youngest First-Generation Americans To Thrive," 2018. Available at <http://childrenshealthwatch.org/wp-content/uploads/Report-Card-on-Food-Insecurity-and-Immigration-Helping-Our-Youngest-First-Generation-Americans-to-Thrive.pdf>

²⁶ East, Chloe N., "The Effect of Food Stamps on Children's Health: Evidence from Immigrants' Changing Eligibility," Working Paper, 2017. Available at http://www.chloeast.com/uploads/8/9/9/7/8997263/east_fskids_r_r.pdf

²⁷ Percheski, Christine and Bzostek, Sharon, "Public Health Insurance and Health Care Utilization for Children in Immigrant Families," Maternal and Child Health Journal 21, 2017.

²⁸ Wagnerman, Karina; Chester, Alisa; and Alker, Joan, "Medicaid is a Smart Investment in Children," Georgetown University Center for Children and Families, March 2017. Available at <https://ccf.georgetown.edu/2017/03/13/medicaid-is-a-smart-investment-in-children/>.

measures of well-being—especially when housing assistance is accompanied by food assistance.²⁹ Research also demonstrates that safety net programs such as SNAP and Medicaid have short and long-term health benefits and are crucial levers to reducing the intergenerational transmission of poverty.³⁰

The Rule would harm a broad swath of children and families in our city. Children in immigrant families do not live in isolation. They live and grow up in communities where their individual success is critical to the strength of the country's future workforce and collective economic security. When families have access to housing assistance, they have more resources to cover the cost of nutritious foods, health care, and other necessities.³¹ Where families live is also directly tied to where they work. If parents lose access to affordable housing, they may also be at risk of losing their jobs. As compared to children without health insurance, children enrolled in Medicaid in their early years have better health, educational, and employment outcomes not only in childhood but as adults.^{32 33} By making health insurance accessible to children and parents, Medicaid keeps families healthy and also protects them from financial hardship. For millions of families, Medicaid is a lifeline that keeps them living above the poverty threshold.³⁴ America's future depends on ensuring that all children succeed. We need to invest in children, rather than put their healthy development and education at risk by destabilizing their families. Forcing parents to choose between their ability to remain with/reunite their family or their children's access to critical benefits is short-sighted and will harm all of us, especially residents of Seattle.

Immigrant children will also be significantly impacted under Scenario C, especially when their parents, out of fear and confusion, disenroll their kids from local supports and other programs that they may legally qualify for. This goes beyond disenrolling from SNAP, which has already been documented. For instance, Seattle Public Schools reports a recent 10 percent decrease in the district's free and reduced lunch program (FRL) enrollments. Although FRL is not one of the public benefits included in the expanded public charge definition, this illustrates the broad sweep of the chilling effect of Scenario C and its negative consequences. Numerous studies demonstrate that the effects of child hunger in America also reach out to touch other areas of a child's life, most notably, their cognitive development.^{35 36 37} A child who does not get enough to eat on a regular basis can display delayed brain

²⁹ Bailey, Kathryn; March, Elizabeth; Ettinger de Cuba, Stephanie; et al., "Overcrowding and Frequent Moves Undermine Children's Health," Children's HealthWatch, 2011. Available at www.issuelab.org/resources/13900/13900.pdf

³⁰ Page, Marianne, "Safety Net Programs Have Long-Term Benefits for Children in Poor Households," Policy Brief, University of California, Davis, 2017. Available at https://poverty.ucdavis.edu/sites/main/files/file-attachments/cpr-health_and_nutrition_program_brief-page_0.pdf

³¹ Maqbool, Nabihah; Viveiros, Janet; and Ault, Mindy, "The Impacts of Affordable Housing on Health: A Research Summary," Center for Housing Policy, 2015. Available at http://www.housingpartners.com/assets/creating_change/http_app.brnto.pdf

³² O'Brien, Rourke and Robertson, Cassandra, "Medicaid and Intergenerational Economic Mobility," University of Wisconsin—Madison, Institute for Research on Poverty, 2015. Available at <https://search.library.wisc.edu/catalog/9910223409002121>

³³ Goodman-Bacon, Andrew, "The Long-Run Effects of Childhood Insurance Coverage: Medicaid Implementation, Adult Health, and Labor Market Outcomes," NBER Working Paper No. 22899, 2016. Available at www.nber.org/papers/w22899

³⁴ Wagnerman, Karina, "Medicaid: How Does It Provide Economic Security for Families?" Georgetown University Health Policy Institute Center for Children and Families, March 9, 2017. Available at <https://ccf.georgetown.edu/2017/03/09/medicaid-how-does-it-provide-economic-security-for-families/>

³⁵ "Statement on the Link Between Nutrition and Cognitive Development in Children," The Tufts University School of Nutrition Science and Policy: Center on Hunger, Poverty and Nutrition Policy, 1998.

³⁶ "Child Nutrition and Cognitive Development – Speaking Points," The Tufts University School of Nutrition Science and Policy: Center on Hunger, Poverty and Nutrition Policy, 1998.

³⁷ Meyers, Alan and Chawla, Neetu, "Nutrition and the Social, Emotional, and Cognitive Development of Infants and Young Children," Zero to Three, August/September 2000.

development and a decreased ability to learn. The longer food insecurity continues, the greater chance of cognitive delays. Low levels of iron, which is detected in nearly a quarter of low-income children and is a key concern with child hunger in America, is linked with impaired cognitive development.

Additionally, low-income children that come to school hungry have lower scores on standardized tests than low-income children that arrive at school well-fed. This is another example of how the Rule could cause collateral damage to immigrant children and families.

FRL is just one example of a “non-public charge benefit” that helps children and that could be included in the nationwide chilling effect noted in Scenario C. The City has other publicly funded programs that fearful immigrant families may opt their kids out of. For instance, the City passed, as a ballot measure, City-subsidized universal pre-kindergarten, which we continue to fund through successive property tax levies. The Seattle Preschool Program provides voluntary, high-quality early learning for pre-school aged children in Seattle. We believe it is plausible that parents may disenroll their kids from this program out of the same fear that has motivated them to remove kids from FRL programs. This can have far-reaching impacts on future generations of Seattle residents, as the research on early education has shown it improves participants’ outcomes across a variety of factors: increased school attendance rates, fewer failing grades, less grade retention, an increased likelihood of graduating from high school, and less involvement in criminal activity.³⁸

B. The Rule will negatively impact immigrant families who utilize Medicaid that provides crucial health care access.

In particular, the Rule will specifically negatively impact immigrant families who utilize Medicaid to stay healthy and well. Of significant concern to the City is disenrollment amongst those who receive insurance coverage through Medicaid and the resulting drop in health care visits, (e.g., Scenarios B and C)

A 2018 survey of public health clinics found that two-thirds of health providers reported an increase in parents’ fear about enrolling kids in Medicaid, and nearly one-half of providers reported an increase in no shows.³⁹ Likewise, fear has already been driving immigrant families, who are eligible to receive benefits for themselves or their children, to forgo vital health and nutrition assistance, jeopardizing the health of families and communities alike. Historical evidence from the 1996 Personal Responsibility and Work Opportunity Act (PRWORA) policy changes, which is cited in the NPRM itself,^{40 41} demonstrates that public information alone cannot prevent these damaging consequences because of the complexity of immigration policies (greatly increased by this proposed rule), among other reasons. Even among

³⁸ See <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2005/06/15/why-all-children-benefit-from-prek>

³⁹ See <https://www.childrenspartnership.org/wp-content/uploads/2018/03/Provider-Survey-infographic-pdf>

⁴⁰ Genser, Jenny, “Who is leaving the Food Stamps Program: An analysis of Caseload Changes from 1994 to 1997,” Washington, DC: U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis, Nutrition, and Evaluation, March 1999.

Available at <https://www.fns.usda.gov/snap/who-leaving-food-stamp-program-analysis-caseload-changes-1994-1997>

⁴¹ Fix, Michael E. and Passel, Jeffrey S., “Trends in Noncitizens’ and Citizens’ Use of Public Benefits Following Welfare Reform: 1994–1997,” The Urban Institute, June 17, 2018. Available at <https://www.urban.org/research/publication/trendsnoncitizens-and-citizens-use-public-benefitsfollowing-welfare-reform>

groups of immigrants who were explicitly excluded from the 1996 eligibility changes, such as U.S citizen children in mixed status families, participation dropped dramatically.⁴²

In the State of Washington and the City of Seattle, we believe that healthy starts lead to healthy lives. Washington State has enacted the “Cover All Kids” legislation, which created the Apple Health for Kids program that uses a mixture of state and federal dollars to make sure all kids have streamlined insurance coverage that provides basic care. Approximately 34,900 Seattle children are enrolled in this program. And if just 20 percent of families decide to disenroll through the various scenarios listed above, then we estimate that almost 7,000 Seattle children would be negatively impacted by this Rule due to families deciding not to access basic medical.

In addition to minors, Medicaid disenrollment is also a concern for many of the 71,500 Seattle adults who are enrolled in Washington’s Medicaid program.⁴³ Our region is currently enjoying the lowest rate of uninsured populations ever recorded. Public Health – Seattle & King County data shows that insurance coverage helps keep families stable and leads to a vibrant and strong local economy. Parents miss fewer days at work. Pregnant women are more likely to seek prenatal care, leading to improved birth outcomes. And families with access to preventive care are less likely to face the financial catastrophes associated with delayed care.

C. The Children’s Health Insurance Program (CHIP) should not be included in the list of proposed benefits considered in the public charge test, for many of the same reasons that Medicaid should not.

We strongly oppose expanding the list of benefits proposed in 8 CFR 212.21(b) to include the Children’s Health Insurance Program (CHIP). To do so would penalize even more families and children for accessing health care than the inclusion of Medicaid, both because of actually being subject to the public charge definition and because of the chilling effect, reflected in Scenario C above, arguably the more significant impact. Making the receipt of CHIP a negative factor in the public charge assessment or including it in the public charge definition, would exacerbate the problems with this rule by extending its reach further to exclude moderate income working families – and applicants likely to earn a moderate income at some point in the future. Nearly 9 million children across the U.S. depend on CHIP for their health care.⁴⁴ Many eligible citizen-children would likely forego CHIP—and health care services altogether—if their parents think they will be subject to a public charge determination.

Washington State’s CHIP program is Washington Apple Health for Kids, and with premiums, it provides health coverage to children in families with low to moderate incomes, up to 312 percent of the Federal Poverty Level (FPL). It covers all income-eligible children, and serves children regardless of immigration status using state-only funds.⁴⁵ Over 92 percent of eligible children participated in Medicaid or Washington Apple Health for Kids in 2014, comprising 42,637 children, and increasing to 66,517 in

⁴² Kaushal, Neeraj and Kaestner, Robert, “Welfare Reform and health insurance of Immigrants,” Health Services Research, 40(3), June 2005. Available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361164/pdf/hesr_00381.pdf

⁴³ Public Health - Seattle & King County; Assessment, Policy Development & Evaluation Unit, November 2018.

⁴⁴ Mahan, Dee, “The Children’s Health Insurance Program,” Families USA, September 2017. Available at http://familiesusa.org/sites/default/files/product_documents/CHIP_101.fin_.pdf

⁴⁵ Washington, 2016 CHIP Fact Sheet. American Academy of Pediatrics. Available at <https://nashp.org/wp-content/uploads/2015/02/2016-CHIP-Fact-Sheets.pdf>

2016.^{46 47} From 2014 to 2016 the Medicaid and CHIP programs combined in Washington covered 58 percent of non-citizen children residing in the state, including, for example, 80.3 percent of non-citizen Hispanic children, and 42 percent of U.S.-born children.⁴⁸ In King County alone, the total number of children covered by Medicaid and CHIP is 180,000, of which 8,600 are non-citizens.⁴⁹ An unspecified number of children included in the total number could also disenroll. Thus, a significant population of children in our country could be threatened by the proposed rule, under Scenarios A, B, and C. Implementing a rule, with the awareness that it may negatively impact the health of so many children, is unconscionable.

The notion that DHS now wants to discourage utilization of CHIP by both citizen and non-citizen children who are otherwise eligible for it is wrong-headed and contrary to Congressional intent. **The “significant resources” that DHS apparently laments expending on CHIP (FR 51174) are in fact well spent, ensuring that all children lawfully residing in the U.S. have access to health care.** In expanding coverage to lawfully present children and pregnant women, Section 214 of the 2009 Children’s Health Insurance Program Reauthorization Act (CHIPRA) gave states a new option to cover, with regular federal matching dollars, these designated populations under Medicaid and CHIP during their first five years in the U.S. This was enacted because Congress recognized the public health, economic, and social benefits of ensuring that these populations have access to care. Moreover, Congress left it to the discretion to the states to decide whether or not to provide this coverage to pregnant women and children. DHS should not contravene Congress’s purpose in passing CHIPRA through the implementation of an expanded public charge definition.

Overall, we believe the benefits of excluding CHIP and Medicaid strongly outweigh their inclusion in a public charge determination. We firmly recommend that DHS not only continue to exclude CHIP from consideration in a public charge determination in the final rule but also exclude receipt of Medicaid for the same reasons.

D. The Rule would discriminate against people with disabilities in that they are disproportionately included in heavily weighted negative factors.

The City objects to the manner in which people with disabilities will be excluded simply because they are disabled. Although DHS asserts that a person’s disability “would not be the sole basis for an inadmissibility finding” (FR 51184), in fact, persons with disabilities are disproportionately negatively affected by the Rule because it is so prominently focuses on ability to work. This highlights a problematic purpose of this Rule, which appears to be a shift to merit-based, rather than family-based, immigration.

Given this focus, people with disabilities are disproportionately included in the negative factors in the totality of the circumstances test. Under the Health factor, they are specifically singled out: The presence of a medical condition or *disability diagnosis* that interferes with the person’s ability to care for

⁴⁶ Id.

⁴⁷ See https://www.aap.org/en-us/Documents/fed_advocacy_chip_washington.pdf

⁴⁸ Table: Estimates of Means-Tested Public Benefit Use by U.S. Citizenship Status: Total, Asian American and Pacific Islander (AAPI), and Hispanic Populations, 2014-16. Migration Policy Institute. Available at <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>

⁴⁹ Public Health - Seattle & King County; Assessment, Policy Development & Evaluation Unit, November 2018.

themselves, work, or attend school, is a heavily weighted negative factor under the totality of the circumstances (FR 51184, 51292). In this way, discrimination is built into the new conception of the test. Moreover, even though DHS states that disability would not be the sole basis for inadmissibility, other factors under the test could be hard to overcome, often leaving people with disabilities with several negative factors. Under the Financial Status factor of the test, applicants who are using, have used in the past 36 months, or have been approved for Medicaid have another heavily weighted negative factor against them (FR 51292). People with disabilities often rely more heavily on Medicaid-funded services because Medicaid fills the gaps in private insurance, which is not required to cover services such as personal care, respite, nursing, mental health services, or employment supports.⁵⁰ These community-based services can be essential in allowing people with disabilities to attend work or school or otherwise participate in their communities.

People with disabilities are also more at a disadvantage under the Education and Skills factor, with its focus on employment and employability. As disability advocates have noted, “unemployment rates for people with disabilities in this country are still drastically higher than those for people without disabilities, and the disparity is even more dramatic internationally.”⁵¹ At FR 51184, DHS states that about 41 percent of working-age people with disabilities were employed, according to a 2010 study. However, this highlights the reverse, that about 59 percent of that population were not able to work and would receive a negative strike because of this. Even with supports (such as those available through Medicaid – another negative factor), not everyone with a disability can work. Disability advocates have determined that under the proposed Rule, it will be “very difficult, if not impossible, for a person with a significant disability to avoid being considered a public charge.”⁵²

In addition, people with disabilities will be vulnerable to the same chilling effect described in Scenario C above, in that they may choose not to receive vital public supports for fear of affecting their own or their family’s immigration status. They may also be indirectly affected by the proposed Rule in that the pool of home care and direct support workers (often immigrants who use income supports due to low wages) will likely decrease, resulting in a loss of independence for people with disabilities who rely on such services.

The City opposes the new conception of the totality of the circumstances test because of the disproportionate negative impact it will have on people with disabilities. Although DHS asserts that its proposed interpretation of the statute does not discriminate under federal law (FR 51184), in fact, it will be much harder for people with disabilities to be found to be admissible under this Rule.

E. The Rule will negatively impact immigrant families who live in federally-funded affordable housing.

Homelessness and housing instability are already a severe problem in Seattle and King County. According to the 2018 Point-in-Time Count in Seattle/King County, there were 12,112 people experiencing homelessness.⁵³ According to a 2016 report on homelessness conducted by the City, 11

⁵⁰ See <https://medicaid.publicrep.org/wp-content/uploads/2018/05/CPR-ASAN-The-Arc-Public-Charge-Info-Sheet.pdf>

⁵¹ Id.

⁵² Id.

⁵³ See <http://allhomekc.org/wp-content/uploads/2018/05/FINALDRAFT-COUNTUSIN2018REPORT-5.25.18.pdf>

percent of the 1,050 homeless people in Seattle said they were immigrants or refugees.⁵⁴ Casa Latina is a Seattle-based nonprofit organization that offers assistance and training for immigrant laborers. Anecdotally, Casa Latina staff have reported that the majority of their full-time immigrant workers utilize temporary overnight shelters and do not have access to affordable, stable housing. The federal definition of homelessness is unique for minors because of how vulnerable they are to any form of housing instability. According to Seattle Public Schools, 4,280 public school children were determined to be homeless in the 2016-2017 academic year, which was a 23.3 percent increase from the previous academic year.⁵⁵ Notably, the immigrant dense neighborhoods in Southeast Seattle reported a tripling of homeless public school students since 2010.⁵⁶

The City opposes adding receipt of Section 8 Housing Choice Voucher Program, Section 8 Project-Based Rental Assistance, and living in federally-funded public housing to the list of federal benefits for the public charge determination. It is plausible that under Scenario C, a percentage of immigrants will drop out of affordable housing and choose overnight shelters and other temporary homelessness programs. We believe that it is also plausible that immigrant families who might qualify for these housing supports may decide not to apply, also placing them at high risk of housing instability. Studies have shown that unstable housing situations can cause individuals to experience increased hospital visits, loss of employment, and mental health problems.^{57 58} Having safe and stable housing is crucial to a person's good health, sustaining employment, and overall self-sufficiency. The Rule threatens to undermine the overall well-being of low-income immigrants and their families.

F. DHS should not include other unenumerated public benefits in the list of designated public benefits in the definition of public charge or as a consideration in totality of the circumstances test.

The City strongly objects to DHS' proposal to include additional unenumerated benefits in the list of public benefits at FR 51173. Including use of benefits such as retirement or veterans' benefits would have the unjust result of penalizing non-citizens who contributed to our economy, fought our wars, and otherwise invested in our country.

In addition, inclusion of other state or local benefits would add to the complexity of both the application and the adjudication of the Form I-485, given the array of local benefits across the country, with varying eligibility requirements. Training adjudicators in proper consideration of such a wide range of benefits would entail unclear but likely significant costs and would undoubtedly result in inconsistent outcomes. Requiring an adjudicator to determine whether a particular local benefit fell onto the list, or whether

⁵⁴ City of Seattle 2016 Homeless Needs Assessment prepared by Applied Survey Research. Available at <https://www.documentcloud.org/documents/3480319-City-of-Seattle-Homeless-Needs-Assessment-March.html>

⁵⁵ See <http://www.k12.wa.us/HomelessEd/Data.aspx>

⁵⁶ Norimine, Hayat, "In South Seattle, the Number of Homeless Students Tripled Since 2010," Seattle Met, April 12, 2018. Available at <https://www.seattlemet.com/articles/2018/4/12/in-south-seattle-the-number-of-homeless-students-tripled-since-2010>

⁵⁷ Horowki, Meredith, "Housing Instability and Health: Findings from the Michigan Recession and Recovery Study," National Poverty Center Policy Brief #29, March 2012. Available at http://www.npc.umich.edu/publications/policy_briefs/brief29/NPC%20Policy%20Brief%20-%2029.pdf

⁵⁸ Desmond, Matthew and Gershenson, Carl, "Housing and Employment Insecurity Among the Working Poor," Soc. Problems 1, 2016. Available at <http://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824http://pediatrics.aappublications.org/content/early/2018/01/18/peds.2017-2199>

receipt would result in the likelihood of becoming a public charge in the future, provides too much discretion to adjudicators and too much uncertainty for applicants.

Another related issue is the confusion of which public benefits are included in the public charge determination. The City offers at least 21 means-tested benefits programs for income-qualified residents regardless of their citizenship status. During the adjudication process, both the applicant and the adjudicator, but especially the applicant, will encounter difficulty in determining whether a local or federal program is included in the new public charge test. For instance, the Seattle Utility Discount Program (“UDP”), offers eligible customers a 60 percent discount on their Seattle City Light bill and a 50 percent discount on their Seattle Public Utilities bill. UDP is available for income-qualified residential households, regardless of each member of the household’s citizenship or immigration status. Anecdotally, the City of Seattle Human Services Department staff members have reported that customers who are immigrants have been reluctant to sign up for the program. The previous list of public charge benefits was straightforward, supported by multiple federal departments, and easy for many immigrants to understand regarding the public charge determination. The addition of even more benefits would cause increased confusion for both immigrants and adjudicators for the long-term.

Moreover, the administrative burden on local agencies who administer such benefits would be manifest in costs in staff time and materials in providing information to benefit applicants about potential immigration consequences and in the necessity of differentiating among citizens and non-citizens where they might not have needed to do so before. These costs would override any gains DHS believes would result in expanding the benefit list further. We strongly urge DHS not to include additional unenumerated benefits on the list or to include their usage at any level in the totality of the circumstances test.

G. DHS should not consider children’s use of public benefits in the public charge assessment for those children.

At FR 51174, DHS seeks comment on whether and how to consider public benefits use as a child (under age 18 or in some cases 21) in the totality of the circumstances test, as a predictor of likelihood to become a public charge. **The City opposes considering a child’s use of public benefits apart from their parents’ because children are generally not financially independent from their parents. Children do not have the same agency as adults in controlling their financial situation and are often dependent on their parents for support. As such, it makes no sense to hold children’s use of public benefits against them.**

States tend to invest in the health, well-being, and education of their young residents, and so it is ludicrous to penalize children/families for use of these benefits, particularly those that serve as income supports for working families.

Age under 18 is already a negative factor in the totality of the circumstances test, given the Rule’s obsessive focus on immediate employability. However, as DHS so appropriately notes at FR 51180, “children under the age of 18 generally face difficulties working full-time.” Given that state laws require that children attend school (also duly noted by DHS) until age 16 or 18, an implied expectation that

children pull their own weight if they wish to immigrate, clearly contravenes public policy and common sense.

Consideration of a child's financial situation separately from their parents' could result in a parent being admissible, but their child being found inadmissible for public charge. This could result in an entire family choosing not to immigrate because of a child's use of Medicaid for example, or conversely of a child not receiving necessary health care because of fear of affecting the whole family's immigration status. This is already occurring due to rumors of this rule.⁵⁹ **A recent analysis by Public Health – Seattle & King County found that around 68,900 children in King County would be included in this chilled population.**

In general, there is little support for the proposition that receipt of public benefits predicts future likelihood of becoming a public charge.⁶⁰ Particularly in the case of children, past receipt of public benefits is not a good indicator of future receipt, as children have not completed schooling, trained for employment, or begun work. Thus, no rational prediction can be made about use of public benefits as a child, and likelihood of becoming a public charge as an adult. As such, it should not be a consideration in the totality of the circumstances test.

H. Adding enrollment in Medicare Part D Program to the public charge criteria will significantly harm people with disabilities and seniors.

The Medicare Part D Program ("Part D") is an optional federal-program to help Medicare beneficiaries pay for life-saving self-administered prescription drugs through a monthly payment of premiums, as well as a copay or percentage of the drug's costs. In its comments, DHS estimates that 2.5 percent of the eligible population of immigrants and their family members who are otherwise eligible for Part D subsidies will either disenroll or forego participation in the programs. In reality, many more immigrants, including many who are not actually subject to the public charge requirement because they have an exempt status, are likely to avoid coverage due to fear of negative immigration consequences, based on all three scenarios outlined above. Specific seniors and people with permanent disabilities will be forced to make an impossible choice between maintaining and retaining their health or obtaining LPR status. The City has outlined two specific ways that the Rule would impact these vulnerable populations.

First, Medicare Part D beneficiaries, who are seniors (65+ years old) and/or individuals with permanent disabilities, are some of our most vulnerable residents. In Washington State, 27 percent of Part D beneficiaries on a stand-alone drug plan rely on the low-income subsidy called "Extra Help." Some of these individuals will have to choose between jeopardizing their health by going without needed medications due to costs or being considered a public charge under the proposed expanded definition.

Second, Extra Help is estimated to be worth approximately \$4,000 per year per individual. This is a substantial support for medications that are often necessary to prevent disease or manage a chronic illness. To forego needed medications due to cost will not only be a harm to an elderly person or

⁵⁹ See e.g., Blitzer, Jonathan, "Trump's Public-Charge Rule Is a One-Two Punch Against Immigrants and Public Assistance," The New Yorker, September 28, 2018. Available at <https://www.newyorker.com/news/dispatch/trumps-public-charge-rule-is-a-one-two-punch-against-immigrants-and-public-assistance>

⁶⁰ See e.g., *Matter of Perez*, 15 I&N Dec. 136 (BIA 1974): "The fact that an alien has been on welfare does not, by itself, establish that he or she is likely to become a public charge."

someone living with a permanent disability, but to our overall health care system that will be burdened with more costly hospital-based and emergency care.

I. The new totality of the circumstances criteria will impose negative health and well-being impacts on an expanded population of immigrants in Seattle.

In addition to expanding the list of public benefits that would result in a public charge finding, the Rule reinterprets how the statutory “totality of the circumstances” factors would be evaluated. DHS proposes codifying the totality of circumstances test by using a weighted evaluation system that compiles “positive factors” and “negative factors” to determine whether an immigrant is or is likely to become a public charge. However, we note that in the Rule, the list of negative factors is much longer than the list of positive ones, which significantly increases the likelihood of someone being deemed a public charge.

For example, simply being under age 18 or over age 62 would automatically be a negative factor. Having a household income above 250 percent of the Federal Poverty Guidelines (“FPG”) would be a heavily weighted positive factor, while a household income below 125 percent of FPG would be a negative. The test would also evaluate health, family status, financial status (including past or current receipt of any of the expanded list of public benefits, as noted above), and education and skills (or employability). These characteristics would be weighed for all LPR applicants, along with an affidavit of support by a sponsor. Thus, given the increased degree of scrutiny an intending immigrant will undergo, an increased number of immigrant residents of Seattle will be negatively impacted, if not found inadmissible, by this new conception of the test.

We collaborated with the University of Washington Center for Studies in Demography and Ecology to determine a plausible estimate of the Seattle population at risk due to these changes. We defined this group broadly to encompass any non-citizens who are subject to the public charge determination, regardless of whether they are currently receiving benefits. The Center for Studies in Demography and Ecology report titled, “Estimates of Seattle’s Population At-Risk of Changes to Public Charge,” which includes a detailed list of methodology and assumptions, can be found in Appendix B.

Demographers at the University of Washington’s Center for Studies in Demography and Ecology estimate that proposed changes to public charge guidelines will directly affect 51,186 immigrants living in Seattle. The proposed changes will also indirectly reach another 33,185 city residents who live in households with someone who is directly impacted, including 10,143 U.S.-born children. **This total affected immigrant population would be 84,371, a significant 64 percent⁶¹ of Seattle’s immigrant population, which would likely be found inadmissible under the new public charge test.**

⁶¹ According to ACS 2014 data, 18 percent of Seattle residents are foreign-born. The U.S. Census Bureau estimates Seattle’s 2017 at 727,745, (see <https://www.census.gov/quickfacts/fact/table/seattlecitywashington,US/PST045217>), which would place Seattle’s foreign-born population at 130,994.

IV. The Rule would have an overall negative economic impact on the City, the state of Washington, and all its residents.

A. The Rule would have negative impacts on the U.S. economy

According to a recent report by the nonpartisan policy research organization Fiscal Policy Institute (FPI), implementing the Rule could cost national, state, and local economies billions of dollars and lead to the loss of hundreds of thousands of jobs.⁶² Nationally, FPI estimates that the implementation of the Rule could lead to \$33.8 billion in losses to the national economy and 230,000 in job losses. In the state of Washington, the Rule would lead to:

- \$196 million in loss of federal funds to immigrants in the state.
- \$378 million in potential economic ripple effects in Washington.
- 2,576 lost jobs for Washingtonians.

Since Seattle has a larger than average percentage of immigrant residents and is the largest and most populous city with the highest GDP in Washington, the above likely losses will impact Seattle disproportionately more than other municipalities in the state.

A new brief from the nonpartisan economic thinktank New American Economy estimates that Rule implementation could impact over a million workers in key job sectors such as food services, construction, natural resources, mining, hospitality, recreation, manufacturing, professional and business services, trade, transportation, and utilities.⁶³

Moreover, a 2018 study by the nonpartisan immigration thinktank Migration Policy Institute estimated that because many full-time low-income workers are eligible for SNAP or Medicaid or housing assistance, even employed applicants could have one or two negative factors. Especially affected would be industries such as agriculture, manufacturing, hospitality, and construction, where labor shortages may be exacerbated by the Rule.⁶⁴

B. The Rule will have negative economic impacts for the expanded population of immigrants who would be considered a public charge residing in Seattle and who access federal benefits.

According to Public Health – Seattle & King County, the total number of people enrolled in SNAP in Seattle is **83,582**; the number of non-citizens enrolled in SNAP in Seattle is approximately **9,300**; and the total dollar amount provided to those 9,300 non-citizens is **\$10.9 million** in the year.

In the City's preliminarily economic analysis regarding SNAP, the Rule if enacted could:

⁶² "Only Wealthy Immigrants Need Apply: How a Trump Rule's Chilling Effect Will Harm the U.S." Fiscal Policy Institute. New York. October 10, 2018. Available at <http://fiscalpolicy.org/wp-content/uploads/2018/10/US-Impact-of-Public-Charge.pdf>

⁶³ "Economic Impact of Proposed Rule Change: Inadmissibility on Public Charge Grounds," New American Economy, October 11, 2018. Available at <https://research.newamericaneconomy.org/report/economic-impact-of-proposed-rule-change-inadmissibility-on-public-charge-grounds/>

⁶⁴ Capps, Randy; Greenberg, Mark; Fix, Michael; and Zong, Jie, "Gauging the Impact of DHS' Proposed Public-Charge Rule on U.S. Immigration," Migration Policy Institute Policy Brief, November 2018. Available at <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>

- Result in an **annual loss of \$2.2 million in SNAP** if just 20 percent of the approximately 9,300 non-citizen Seattleites currently receiving these benefits were to withdraw from participation; and
- Lead to an **additional loss of \$1.7 million in related economic activity**, if the same group of Seattleites were to withdraw from receiving these benefits.

Hence, regarding SNAP, this proposal is likely to result in at least \$1.7 million in economic losses to the City every year.

Additionally, we estimate that at least 8,000 Seattle adult non-citizens are enrolled in Medicaid or 10,000 Seattle households have at least one immigrant family member enrolled in Medicaid and therefore would be impacted by this Rule. Conservatively, Public Health – Seattle & King County estimates that if six percent of the 10,000 households were to disenroll or forgo Medicaid coverage (based on the three scenarios presented above), the economic impact to Seattle would be over \$1.6 million—if that percent increased to 25 percent, we would experience an economic impact of about \$7 million.

This economic impact will also be seen in increased uncompensated and charity care, increased accessing of more costly emergency services, decreased reimbursement for health care providers, increased health care debt, and increased health care costs due to delayed care.

Strong economies and talented workforces start with the healthy individuals and healthy communities that make up those enterprises. A key piece to this is ensuring all of our community members—including immigrant families—have access to the health care benefits they need, including Medicaid.

C. The Rule will have negative economic impacts for the expanded population of immigrants who would be considered a public charge under new totality of circumstances criteria and who live within Seattle.

As mentioned above and documented in Appendix B, researchers at the University of Washington’s Center for Studies in Demography and Ecology estimate that proposed changes to public charge guidelines will directly affect 51,186 immigrants living in Seattle. **The proposed changes will also indirectly reach another 33,185 city residents who live in households with someone who is directly impacted, including 10,143 U.S.-born children.** The population is heavily concentrated among working-age adults (89 percent). It is extremely likely that these adults are working, as the unemployment rate for Seattle as of May 2018 is a historically low 3.0 percent. Even if just a small percentage of these individuals were unable to apply for lawful permanent resident status or had to be removed, the City will likely experience a significant economic hit from the loss of employed workers. This will impact not only these individuals directly, but also the diverse businesses that employ them. Additionally, there are 10,143 directly impacted U.S.-born children who will experience significant impacts being separated from a parent, guardian, or family member.

D. The Rule will incur increased costs to the City and other organizations.

DHS correctly assumes that this Rule would place an unquantified cost burden on several federal departments that administer the newly added public benefits that would be included in the public charge definition. “Moreover, there may be additional unquantified costs that state and local government may incur associated with similar activities. At each level of government, it will also be necessary to prepare training materials and retrain staff. Such changes will require staff time and have associated costs” (FR 51270). The Rule fails to take into consideration the costs to local governments and nonprofit organizations that administer or help sign up qualified immigrant residents for specific social programs.

For example, as mentioned earlier, the City administers a number of programs that immigrant residents may qualify for, such as the:

- **Utility Discount Program**, which helps income-qualified Seattle City Light customers lower their electric bills by 60 percent. Seattle Public Utilities customers will also receive 50 percent off their water, sewer, and garbage bills if enrolled in this program.
- **Seattle Preschool Program**, which provides voluntary, high-quality early learning for pre-school aged children in Seattle.
- **Fresh Bucks Program**, which provides a one-to-one match for a resident’s SNAP/EBT benefits when that resident purchases fresh fruits and vegetables at a participating store/vendor. Every dollar spent at a Seattle Farmers Market using SNAP benefits—up to \$10 per day—is matched with a dollar of Fresh Bucks to buy fresh local fruits and vegetable.

While participating in the above local programs would not factor into an immigrant’s public charge determination, it has already been established that many immigrant residents are often unable to determine whether a government or even nonprofit program is a federal public benefit, as outlined in Scenario C. Many news reports detail the stories of immigrants asking to disenroll from programs, regardless of whether or not they are seeking lawful permanent residency and/or regardless of whether or not the actual program could affect their public charge status.⁶⁵

Given the above situations, many local government agencies and nonprofit social service organizations will likely need to redesign and reprint materials to inform applicants whether or not participation in a program could affect their ability to change status. For the past 20 years, organizations and government departments have worked under the consistent and clear rules about when an immigrant’s use of benefits could result in a negative finding in their public charge determination. Agencies have incorporated these messages on a variety of consumer communications including applications, application instructions, websites, posters used in lobbies, in notices, and in scripts and trainings for

⁶⁵ Nina Shapiro, “As Trump considers penalties, Seattle-area immigrants turn down public benefits they’re entitled to claim,” Seattle Times, August 12, 2018. Available at <https://www.seattletimes.com/seattle-news/legal-immigrants-in-seattle-area-alarmed-over-possible-penalties-for-using-benefits/> and Seattle Times staff and Los Angeles Times, “‘Heartless, punitive’: Health officials, immigrant advocates decry Trump proposal to limit access to green cards if using public benefits,” Seattle Times, October 11, 2018. Available at <https://www.seattletimes.com/seattle-news/health/heartless-punitive-patient-advocates-decry-trump-move-to-restrict-immigrants-health-care-access/>

staff. Should the Rule go into effect, all these consumer communications will have to be identified, taken down, revised, and republished.

The City conducted a preliminary review of just five City programs that income-eligible immigrant Seattleites may qualify for (Seattle Preschool Program, Seattle Utility Discount Program, Fresh Bucks, Home Repair Program, and the Weatherization Program) and determined **that it would cost the City over \$290,000 in updating and reprinting collateral, updating website information, printing and sending letters, and in-person outreach.** This does not include salary costs for outreach staff, consultants, translator/interpreter costs, and media outreach, which added in **would likely triple the cost of informing immigrant residents about this substantial change.**

As noted above, the new rules would be so far reaching and complicated, it is unclear if local governments and organizations will be able to replace them with messages that do not inappropriately deter eligible people.

The City and local non-government organization (NGO) social service agencies will also likely face increased paperwork and caseload work from the inefficiencies caused by what we are calling “caseload churn” because of the Rule. As immigrant clients learn about the Rule, some individuals and families will terminate their participation in programs, as referenced in Scenario C. But, because these programs meet vital needs for families, some of these families will likely return to the caseload, resulting in duplicative work for City departments, such as the Human Services Department and other NGO agencies. Some families may return if they come to understand that they are not subject to a public charge determination, for example, if they have refugee status. Others may re-apply when circumstances become even more dire, for example a child may be withdrawn from Medicaid coverage, but without treatment—such as medication for chronic ear infections—the child’s condition may worsen, and the family will re-enroll the child even though they are fearful the act may jeopardize a family member’s chance to become a lawful permanent resident. This on again-off again approach to benefit enrollment, which we are referring to as “churn,” not only yields negative results for families, it also results in duplicative work for state and local agencies. Churn is an inefficient use of resources and is expensive for taxpayers. In one study of SNAP-related churn, the costs averaged \$80 for each instance of churn that requires a new application.⁶⁶

In responding to stakeholder inquiries related to the Rule, the City and State agencies have already expended considerable resources. The City created websites, toolkits, and other informational documents translated into seven languages at extra cost to its budget. We anticipate that both City and State agencies will have to prepare to answer client questions about the Rule if implemented in its entirety. We have already experienced increased call volume, emails, and other online communications platforms from immigrant residents concerned about the new policies, and likely state agencies have experienced the same. Due to the technical nature of the Rule and the complexity around these new public charge determinations, government and NGOs will likely tell all clients with inquiries that they must speak to an immigration attorney or DOJ-accredited representative to answer their questions about the impact of accessing benefits on their immigration status. And such advice would likely deter

⁶⁶ Mills, Gregory; Vericker, Tracy; Koball, Heather; Lippold, Kye; Wheaton, Laura; and Elkin, Sam, “Understanding the Rates, Causes, and Costs of Churning in the Supplemental Nutrition Assistance Program (SNAP) - Final Report,” Prepared by Urban Institute for the US Department of Agriculture, Food and Nutrition Service, November 2014. Available at <https://fns-prod.azureedge.net/sites/default/files/ops/SNAPChurning.pdf>

eligible people from enrolling in programs, including many who would never be subject to a public charge determination, as outlined in Scenario C. Moreover, people who seek federal public benefits will be unlikely to be able to afford to seek legal counsel to determine if accessing services will jeopardize their family's immigration goals.

E. The Rule will have negative economic impacts for an expanded population of immigrants based on displacement and the worsening commutes and traffic as a result.

Seattle has one of the highest costs of living in the U.S., driven primarily by housing costs. Its high median income, \$88,944 for a family of four⁶⁷ (Boston: \$107,800⁶⁸, San Francisco: \$118,400⁶⁹) creates challenges for families with incomes below this threshold, transitioning between jobs, or in the process of immigrating. The 2017 Self Sufficiency Standard for Washington State notes that a family with two adults, an infant, and a preschooler would need to earn \$86,359 annually (\$20.45 per adult per hour) to be self-sufficient, a single adult would require \$27,241 annually (\$12.90 hourly).⁷⁰ The Rule would be financially debilitating for Seattle residents in Scenario B who do not meet this new totality of circumstances standard (FR 51178). Families would have to choose between feeding their children or applying for lawful permanent residency. The income level at which the proposed Rule is less likely to affect an immigrant applying for lawful permanent residency is \$41,150 for a single adult and \$73,550 for a family of five.⁷¹ At these thresholds, living in a one-bedroom apartment would take up nearly half (46 percent) of an individual's salary, and a family's two-bedroom apartment would comprise 55 percent of their annual income. The above analysis only considers housing costs. However, residents must also contend with Seattle's high cost of living, federal taxes, transportation, health care, and saving for emergencies. Likely this issue affects U.S. cities with economies similar to Seattle's.

Families, especially those with young children, that fall below the self-sufficiency level for Seattle, are able to stay within the city by using work supports. Temporary use of housing vouchers, SNAP benefits, and Medicaid all support families and young children in having access to safe housing, nutrition, and preventative health care while they build savings and use job training or education to become self-sufficient. Should the Rule go into effect in its present form, immigrant families who are living in Seattle, are interested in applying for lawful permanent residency, and qualify for work supports are likely to withdraw from programs to avoid impacting their eligibility. They would need to supplement their income and/or reduce costs without the benefit of public support. Given that housing is the largest expense for many families, these individuals would need to either work more than one job or move to a less expensive area and commute to work in Seattle where wages are higher.

⁶⁷ See <https://www.dshs.wa.gov/esa/eligibility-z-manual-ea-z/state-median-income-chart>

⁶⁸ See <http://www.bostonplans.org/housing/income,-asset,-and-price-limits>

⁶⁹ See <https://sf-planning.org/home-sf-affordability-requirements>

⁷⁰ Pearce, Diana M., "The Self-Sufficiency Standard for Washington State 2017," The Workforce Development Council of Seattle-King County, September 2017. Available at http://selfsufficiencystandard.org/sites/default/files/selfsuff/docs/WA2017_SSS.pdf

⁷¹ Anderson, Stuart, "How will the public charge rule impact employers and immigrants?" Forbes, October 1, 2018. Available at <https://www.forbes.com/sites/stuartanderson/2018/10/01/how-will-the-public-charge-rule-harm-employers-and-immigrants/#4b4081874995>

In the 2010 Census, 57.2 percent of respondents noted housing as a reason to move, with 13.9 percent specifically noting cheaper housing as their reason for moving.⁷² Seattle is located in King County. The neighboring counties of Kitsap, Skagit, Pierce, and Kittitas have lower average housing costs, but would require a commute of an hour or more each way. This type of inter-county movement, and the resulting “extreme commutes” (commutes longer than 60 minutes as defined by Sweet, 2014), have drastic effects on the economy. These extreme commutes slow job growth in U.S. metropolitan regions with regular commuting delays of just 4.5 minutes/day.⁷³ In regional commuting dynamics, a one-way commute of 31 miles (50 km) versus 6.2 miles (10 km) results in a 15 percent higher rate of absenteeism, and absenteeism overall would be 15-20 percent less (about 35 to 46.5 working days per year), should all employees have a negligible commute.⁷⁴ Considering the magnitude of productivity loss within individual firms, the economic losses to an individual firm can be magnified by roughly double at the regional scale.⁷⁵

In a global study of congestion in 296 U.S. cities and urban regions, congestion cost drivers \$305 billion in direct and indirect costs in 2017.⁷⁶ The study placed Seattle ninth in the top 25 U.S. cities with the worst traffic congestion, with traffic congestion costing the average driver \$1,853 annually, and costing the City \$5 billion in direct and indirect costs. Juxtaposed against Seattle’s gross domestic product of just over \$97 billion,⁷⁷ the potential costs of families leaving Seattle to preserve their opportunity for LPR status can compound the loss of over five percent of the Seattle’s regional output. The cost is staggering not only within the context of a family trying to make ends meet, but within a holistic view of the Seattle metropolitan region.

V. The Rule disproportionately harms people of color.

The proposed Rule will have a disproportionate impact on people of color. While people of color account for approximately 36 percent of the total U.S. population, of the 25.9 million people who would be potentially chilled by the proposed Rule, approximately 90 percent are people from communities of color (23.2 million). Among people of color potentially chilled by the Rule, an estimated 70 percent are Latino (18.3 million); 12 percent are Asian American and Pacific Islander (3.2 million); and 7 percent are Black people (1.8 million). Among people of color, approximately 33 percent of Latinos, 17 percent of

⁷² Shlomo, Angel and Blei, Alejandro M., “The productivity of American cities: How densification, relocation, and greater mobility sustain the productive advantage of larger U.S. metropolitan labor markets.” *Cities*, 51, 36-51, January 2016. Available at <http://dx.doi.org/10.1016/j.cities.2015.11.030>

⁷³ Sweet, Matthias, “Traffic congestion’s economic impacts: Evidence from US metropolitan regions,” *Urban Studies*, 51(10), 2088-2110, August 2014. Available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.864.974&rep=rep1&type=pdf>

⁷⁴ van Ommeren, Jos and Gutiérrez-i-Puigarnau, Eva, “Are workers with a long commute less productive? An empirical analysis of absenteeism,” *Regional Science and Urban Economics*, 41, 1-8, 2011. Available at <https://papers.tinbergen.nl/09014.pdf>

⁷⁵ Bankert, Brian; Coberley, Carter; and Wells, Aaron R., “Regional economic activity and absenteeism: A new approach to estimating the indirect costs of employee productivity loss,” *Population Health Magazine*, 18(1), 47-53, 2015. Available at <https://10.1089/pop.2014.0025>

⁷⁶ INRIX Research. (2018). INRIX Global Traffic Scorecard. Kirkland, WA and Cheshire, England.

⁷⁷ City of Seattle Office of Economic Development (OED). (2018). Gross Regional Product 2017.

Asian and Pacific Islander American, and 4 percent of Black people would be potentially chilled, as suggested by Scenario C, by the proposed Rule.⁷⁸

Demographers at University of Washington’s Center for Studies in Demography and Ecology estimate that proposed changes to public charge guidelines will affect a total immigrant population of 84,371, (see Appendix B for details). This is a significant 64 percent of Seattle’s immigrant population who would likely be unable to pass the new public charge test. Notably, these immigrants would identify as people of color, as people originally from China (17 percent), Mexico (12 percent), and India (9 percent) form the largest shares of this population.

VI. Conclusion

For the reasons detailed above, the City of Seattle strongly opposes modifying the rules for determining inadmissibility based on “public charge.” DHS should immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families in the future.

The City has an economic, public health, and moral interest in seeing all our communities thrive. As such, everyone in those communities must be able to stay together and get the care, services, and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Joaquin Uy at joaquin.uy@seattle.gov to provide further information.

⁷⁸ 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 20122016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center (MCDC) MABLE PUMA-County Crosswalk. Custom Tabulation by Manatt Health, September 30, 2018. Available at <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>

Appendix A

Seattle Benefits Enrollment

Number of citizens and non-citizens enrolled in SNAP: **83,600**

Number of non-citizens enrolled in SNAP: **9,300**

Total dollar value of SNAP benefits provided to non-citizens: **\$10,900,000**

Number of adult citizens and non-citizens enrolled in Medicaid: **71,500**

Number of adult non-citizens enrolled in Medicaid: **8,000**

Total dollar value of Medicaid benefits provided to adult non-citizens: **\$39,700,000**

Number of child citizens and non-citizens enrolled in Medicaid: **34,900**

Number of child non-citizens enrolled in Medicaid: **1,600**

Total dollar value of Medicaid benefits provided to child non-citizens: **\$3,100,000**

Seattle Chilled Population*

Number of people of all ages in the chilled population: **45,700**

Number of children in the chilled population: **10,500**

** Chilled Population: everyone who lives in a family with at least one non-citizen immigrant, and where someone in that family has received SNAP and or Medicaid.*

Data Sources:

- U.S. Census Bureau; American Community Survey (ACS), 5-Year Public Use Microdata Sample (PUMS), 2012-2016.
- Washington State Office of Financial Management, Forecasting Division, single year intercensal estimates 2011 – 2018, Community Health Assessment Tool (CHAT), September 2018.
- Washington State, DSHS Client Services, [Unduplicated client counts, use rates and cost by age group](#).
- Medicaid eligibility data, WA State Health Care Authority (HCA).
- "[Apple Health: Enrollment and Cost Trends](#)", January 9, 2018

Limitations & Notes:

- Non-citizens include legal permanent residents (green-card holders), refugees, asylees, undocumented residents, and other categories of immigrants who are not subject to the Public Charge test.
- The ACS survey data used for this analysis are known to underestimate Medicaid enrollment. We therefore applied a correction factor to our estimates. We assumed that the correction factor for the general population could be applied to the non-citizen population. Similarly, we assumed that the correction factor applied equally to adults and children.
- Children enrolled in CHIP are included in children enrolled in Medicaid.



Appendix B
CENTER FOR STUDIES IN DEMOGRAPHY AND ECOLOGY
UNIVERSITY OF WASHINGTON

Estimates of Seattle's Population At-Risk of Changes to Public Charge

Matthew Hall, Ph.D.¹

Mark Ellis, Ph.D

Chris Hess

Maria Vignau Loria

Summary

Demographers at University of Washington's Center for Studies in Demography and Ecology estimate that proposed changes to public charge guidelines will directly affect 51,186 immigrants in the City of Seattle. The proposed changes will also indirectly reach another 33,185 city residents who live in households with someone who is directly impacted, including 10,143 U.S.-born children.

Demographic Overview of Directly-Impacted Population

The population in the City of Seattle directly susceptible to public charge redefinition is estimated to be 51,186 (Table 1). Immigrants from China (17%), Mexico (12%), and India (9%) form the largest shares of this population. The population is heavily concentrated among working-age adults (89%), although there are a non-trivial 3,327 (6%) number of directly impacted children. The bulk of this population lives in households with incomes placing them outside of the federal poverty threshold (100% FPL), but a sizable portion (27%) are in poverty or near poverty (23%).²

Table 1: Estimates of impacted population

	Estimate	95% Margin of Error
Impacted population	51,186	±3,252
Top-5 Nationalities		
China	8,718	±1,237
Mexico	6,316	±1,285
India	4,722	±1,073
Canada	3,047	±567
Philippines	2,814	±1,180
Age		
Children (0-17)	3,327	±802
Working ages (18-64)	45,389	±2,836
Older ages (65+)	2,470	±623
Poverty status		
In poverty (<100% FPL)	14,303	±1,733
In near poverty (100-250% FPL)	11,588	±1,521
Not in poverty (>250% FPL)	25,295	±2,366

¹ Direct correspondence to hallmatt@uw.edu.

² This high poverty rate is partly a function of the large number of international students in this population. Excluding students and their dependents produces an estimate of the poverty rate of 15%, which is much closer to the poverty rate of US-born Seattleites of 14%.

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The estimates also indicate that 33,185 individuals who are not directly impacted by the public charge redefinitions live in households with an impacted member (Table 2). This includes over 10,000 U.S.-born citizen children with parents who are directly impacted by these changes.

Table 2: Estimates of non-impacted population in impacted households

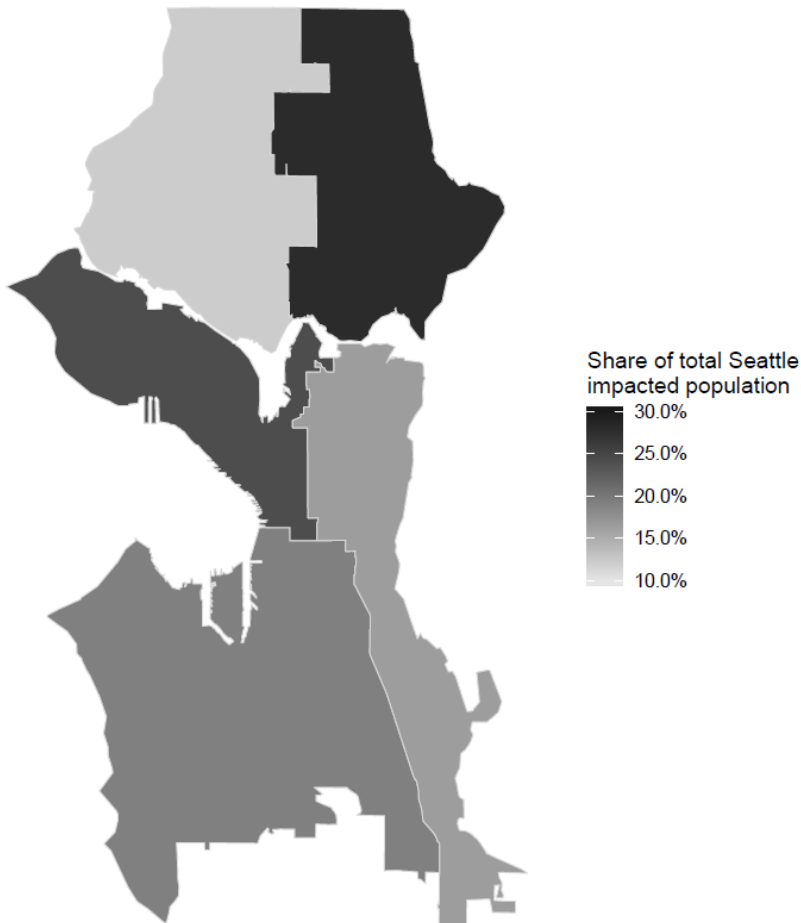
	Estimate	95% Margin of Error
Total others in impacted households	33,185	±2,966
U.S.-born children in impacted households	10,143	±1,430

Note: values refer to non-impacted individuals living in households with an impacted household member

Geographic Distribution of Impacted Population

The impacted population is concentrated in the northeastern region of Seattle, home to the University of Washington and a large population of foreign-born students who have potential visa pathways to legal permanent residence (Figure 1).

Figure 1: Distribution of Impacted Population across Seattle's PUMAs



Note: Public-use microdata areas (PUMAs) are sampling units defined by the Census Bureau

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Another sizeable portion of the impacted population resides in Downtown, South Lake Union, and Magnolia neighborhoods, where high-tech and medical industries have a large presence. This area may be home to a disproportionate share of the region's H-1B and other visa holders who work in these industries. South and West Seattle have lower shares of the city's impacted population. This may be surprising because the immigrant share of population is higher in many South Seattle neighborhoods than in other areas of the city. The share of the city's impacted population in South Seattle could be lower than elsewhere because a high fraction of foreign-born residents there have legal permanent residence or hold refugee status. Additionally, the population of foreign-born students and temporary workers most at risk from this change live in greater numbers in other parts of the city. Northwest Seattle has the lowest share of the impacted population in the city.

Methodology

In order to estimate the size and to describe features of the impacted population, micro-level Census records from the 2012-2016 multiyear American Community Survey (ACS) were used as the main source of data.³ The ACS is an ongoing annual survey that provides representative estimates of the US population, at various levels of geography. Our estimates are based on an aggregation of the five public-use microdata areas (PUMAs) in Seattle.

The ACS includes several critical measures necessary for determining the impacted population, including country of birth, year of entry, and citizenship status. The data do not, however, include the kind of detailed immigration statuses necessary in order to classify the non-citizen population into lawful permanent residents (LPRs), who are not vulnerable to the changes in public charge, and other noncitizen populations, who are susceptible to the proposed changes. Our approach for determining the latter population is based on a logical imputation derived from administrative sources and allocated counts.⁴

Our estimate starts with the estimated 62,314 noncitizens residing in Seattle in 2012-2016. In order to determine the portion of this count that is impacted by these changes, we remove noncitizens who are likely to hold a Green Card (LPR) through family or employment, as well as migrants who arrived as refugees. We characterize likely-family-sponsored LPRs as noncitizens with a spouse or parent who is a US citizen by birth or naturalization. Administrative reports from the Department of Homeland Security indicate that this allocation captures 70% of those who obtained family-based LPR status in 2016.⁵

Employment-based (EB) pathways form a comparatively small portion of LPRs, representing just 12% of LPR recipients in 2016. The priorities for obtaining EB LPR are, however, highly selective; granting LPR status to highly-educated workers in professional fields. In our allocations, we classify likely-employment-based LPRs as noncitizens who have completed a college education, are employed full time, have a personal income of \$75,000 or more, and to prevent intersection with highly-skilled temporary workers, have resided in the U.S. for at least 10 years. We make an exception to the residency rule for the small group of noncitizen with investor (EB-5) LPRs, by classifying those with business incomes exceeding \$200,000 as LPRs. Any noncitizen spouse or children of these likely-EB LPRs are also assigned to LPR status.

³ The data were downloaded from the IPUMS-USA site: <https://usa.ipums.org/usa/> . For more information on the IPUMS project see Ruggles, S., Genadek, K., Goeken, R., Grover, J., & Sobek, M. (2015). Integrated public use microdata series: Version 6.0 [Machine-readable database]. Minneapolis: University of Minnesota.

⁴ Similar approaches are used by demographers to estimate the size and characteristics of the unauthorized population (Passell and Cohn 2016; Hall, Greenman, and Farkas 2010).

⁵ <https://www.dhs.gov/immigration-statistics/yearbook/2016/table6>

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Refugee status is determined using a modified version of the method developed by Capps et al. (2015)⁶ and Evans and Fitzgerald (2017)⁷. Specifically, we calculate a refugee intensity index based on historical flows of refugee sending countries between 1990 and 2016 and refugee adjustments between 1946 and 1989. We relate these refugee flows to estimates of immigrant arrival cohorts, by country, based on national estimates of the resident immigrant population in the 2012-2016 ACS. We link these country- and year-specific indices to individual noncitizens in our Seattle-based PUMS sample, and following Capps et al. (2015), set a threshold of 0.4 for allocating noncitizens as likely-refugees.⁸ Given their unique position in US immigration policy, we also classify all Cuban noncitizens as refugees, as well as Nicaraguans, Guatemalans, and Salvadorans arriving before 1990.⁹

The residual noncitizen group provides the analytic sample for our estimate of the non-LPR noncitizen population. This group captures the resident nonimmigrant population, including international students, temporary workers, and their dependents, as well as undocumented migrants and those on provisional statuses (TPS, DACA). The figure also contains a small number of noncitizens who are not vulnerable to changes in public charge guidelines: those who entered via the Diversity Immigrant Visa program, who are survivors of domestic violence or trafficking (U/T visa holders), Special Immigrant Juveniles, and some parolees. It also is likely to include small numbers of family-based LPRs who are sponsored by non-immediate relatives, as well as small numbers of employment-based LPRs without a college education.

To generate the estimate, we apply person weights provided by the Census Bureau and use the replicate weights for standard error estimation. Based on extensive research detailing the modest undercounts of the foreign-born population in the ACS, we apply an inflation factor of 8% to our estimate.¹⁰ The final estimate is 51,186 with a 95% margin of error of $\pm 3,252$.

We have taken several steps to validate this estimate. Our approach estimates that 11,526 of this population is composed of students who are enrolled full-time at a university/college. We have obtained complete counts of enrolled international students in Seattle university/colleges, including University of Washington, Seattle Pacific University, Seattle University, City University, and Seattle Colleges (Central, North, South, SVI). In Fall 2017, these schools reported a total of 11,294 international students. Similarly, our allocation approach indicates that there are 3,925 workers who are plausible H-1B holders (i.e., workers with a college-degree and incomes of at least \$75,000 [the median for H-1B workers]). Reports from the Department of Homeland Security estimate that Washington State was home to 40,000 temporary workers (including H-1B and H-2A visa holders) and their dependents in 2016.¹¹ Our allocation estimates 20,833 in King County. Given the distribution of workers across the state, where one-third of workers live in King County, this strikes us as a reasonable estimate.

⁶ Capps, Randy, Kathleen Newland, Susan Fratzke, Susanna Groves, Gregory Auclair, Michael Fix, & Margie McHugh. 2015. *The Integration Outcomes of U.S. Refugees*. Washington, DC: Migration Policy Institute.

⁷ Evans, William and Daniel Fitzgerald. 2017. *The Economic and Social Outcomes of Refugees in the United States: Evidence from the ACS*. Working Paper 23498, National Bureau of Economic Research.

⁸ There are 320 country/year pairs with intensity factors meeting this threshold.

⁹ This approach generates an estimate of the Seattle refugee population of 4,073. A media report from KUOW provides an estimate of refugees arriving to Seattle from 2010-2016 of 5,665 (see <http://archive.kuow.org/post/where-seattles-refugees-come-and-other-things-you-should-know>)

¹⁰ See Passel, Jeffrey S and D'Vera Cohn. 2016. *Overall Number of U.S. Unauthorized Immigrants Holds Steady Since 2009*. Washington, D.C.: Pew Research Center

¹¹ https://www.dhs.gov/sites/default/files/publications/Nonimmigrant_Population%20Estimates_2016_0.pdf