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Via Federal eRulemaking Portal (Regulations.gov)

Kristi Noem
Secretary
U.S. Citizenship and Immigration Services
Department of Homeland Security
45900 Capital Gateway Drive
Camp Springs, MD 20746

Re: Public Charge Ground of Inadmissibility Notice of Proposed Rulemaking, Fed. Reg. Vol. 90, No. 221; DHS Docket No. USCIS-2025-0304

Dear Secretary Noem:

The City of New York ("NYC" or the "City") and its municipal hospital system, NYC Health + Hospitals ("NYC H+H") submit this comment in response to the proposed rule issued by the United States Citizenship and Immigration Service ("USCIS") and the Department of Homeland Security ("DHS") entitled "Public Charge Ground of Inadmissibility," which was published in the Federal Register in a Notice of Proposed Rulemaking ("NPRM") on November 19, 2025, 90 Fed. Reg. 52,168 (the "Proposed Rule"). The Proposed Rule removes all guidance for immigration officers to determine whether a noncitizen is inadmissible as a public charge, departing dramatically from longstanding agency policy and resulting in significant confusion. By erasing almost all existing regulatory guidance without providing any replacement, the Proposed Rule creates a vacuum that makes it extremely difficult for individuals, families, and service providers, including municipalities like the City, to gauge the potential immigration consequences of vital life decisions. Considering any and all receipt of public benefits in a public charge determination will create a chilling effect where noncitizen and mixed-status families alike withdraw from public benefits and services, leading to preventable risks to health, safety, and economic security in the City and across the country. Accordingly, the City and NYC H+H strongly urge DHS to withdraw the Proposed Rule.

I. INTRODUCTION

A. The Proposed Rule

Under the Immigration and Nationality Act (“INA”), an applicant for admission to the United States who is likely to become a public charge can be denied admission or adjustment of status. 8 U.S.C. § 1182(a)(4)(A). The INA does not define the term public charge or specify what it means for someone to be “likely at any time to become a public charge.” *Id.* However, the INA identifies certain factors that immigration officers must consider, at a minimum, when making public charge determinations—age, health, family status, assets, education, and skills. *Id.* at § 1182(a)(4)(B)(i).

To reduce confusion around the public charge ground of inadmissibility, and to give effect to the historical understanding of the term that had developed over decades, the former Immigration and Naturalization Service (“INS”), which has since been replaced by USCIS, issued a proposed rule, 64 Fed. Reg. 28,676 (May 26, 1999), as well as field guidance, 64 Fed. Reg. 28,689 (May 26, 1999) (“1999 Field Guidance”), detailing the standard to determine when someone is likely to become a public charge. These explained how a person’s use of public benefits would, or would not, impact their status as a public charge. For example, in the 1999 Field Guidance, the INS clarified that a public charge is someone who is “*primarily dependent on the government for subsistence*” and that officers should not consider receipt of “non-cash benefits[,]” other than long-term institutionalization, in making a public charge determination. 1999 Field Guidance at 28,689 (emphasis added). In 2019, DHS changed course and enacted a rule that purported to broaden the definition of public charge to encompass households that received an aggregate of 12 months of certain, specified benefits, including cash assistance, Supplemental Nutrition Assistance (“SNAP”), and certain forms of Medicaid, within a 36-month period. 84 Fed. Reg. 41,292 (Aug. 14, 2019), as amended by 84 Fed. Reg. 52,357 (Oct. 2, 2019) (“2019 Final Rule”). The 2019 Final Rule was challenged in court, vacated, and ultimately rescinded by DHS. *See* 86 Fed. Reg. 14,221 (Mar. 15 2021) (removing the 2019 Final Rule); *see also Cook County, Ill. v. Wolf*, No. 19–C–6334, 2020 WL 6393005 (N.D. Ill. Nov. 2, 2020) (vacating 2019 Final Rule). In 2022, DHS adopted the current public charge rule, 87 Fed. Reg. 55,472 (Sept. 9, 2022) (“2022 Final Rule”), which codified the 1999 Field Guidance, defining a person who is likely to become a public charge as someone who is “*primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or long-term institutionalization at government expense.*” 2022 Final Rule at 55,473-74.

The Proposed Rule aims to do away with details and definitions, representing a sharp departure from past DHS practice. *See* NPRM at 52,169. Instead, DHS plans to rely entirely on immigration officers’ discretion, and on some potential future guidance DHS may or may not issue—one that will likely not be open for public comment—to make public charge decisions. *Id.* The Proposed Rule removes several sections of regulatory text governing the way officers should make decisions on the public charge ground of inadmissibility, including the following: (i) the definition for “likely at any time to become a public charge”; (ii) the definitions for “public cash assistance for income maintenance and long term institutionalization at government expense”;

(iii) the definition of receipt of a public benefit; (iv) the definitions of “government” and “household”; (v) the text that provides guidance on the public charge inadmissibility determination, including the statutory minimum factors provision and the provision detailing the favorable consideration of a sufficient affidavit of support; (vi) the provision addressing disability and findings of inadmissibility; (vii) the totality of the circumstances provisions; (viii) the denial decision provision; (ix) the provisions related to immigration categories exempt from public charge inadmissibility; and (x) the provisions on the receipt of benefits available to refugees. NPRM at 52,180-91. The Proposed Rule further updates the breach of public charge bond provisions to make it such that the receipt of *any* means-tested public benefit would be considered a violating condition of a public charge bond. *Id.* at 52,184.

These deletions from DHS’ regulations will leave immigration officers with no guidance on how they should make public charge determinations. At the same time, while the Proposed Rule does not affirmatively replace regulatory language after removing these sections, DHS does express that it believes that “any dependence on a means-tested public benefits to meet the alien’s needs . . . [is what] Congress intended to address with the public charge ground of admissibility[.]” *Id.* at 52,186. Evidently, removing guidelines and emphasizing officer discretion is DHS’ chosen mechanism to reach its goal of disallowing people looking to be admitted or receive an adjustment in status, and their families, from using *any* public benefit.

B. NYC’s Foreign-Born Population

NYC has a proud legacy as a city of immigrants. Today, of NYC’s 8.5 million residents, 3 million (or about 38 percent) are foreign-born.¹ Most of these residents are U.S. citizens, but approximately 1.3 million New Yorkers, or about one in six, are noncitizens, many of whom have not yet become Lawful Permanent Residents (“LPRs,” also referred to as a “green card holders”).² Almost 50 percent of New Yorkers live in a household with at least one immigrant. Over one million children—62 percent of all children in NYC—live in a household with at least one foreign-born family member, and 80 percent of those children are U.S. citizens.³

NYC’s foreign-born population is a great asset to the City. Immigrant New Yorkers have a labor force participation rate of 43.9 percent, similar to the rate for their U.S.-born counterparts.⁴

¹ 2024 Annual Report on New York City’s Immigrant Population and Initiatives of the Office, MAYOR’S OFF. OF IMMIGR. AFFS. (Apr. 2025), available at https://www.nyc.gov/assets/immigrants/downloads/pdf/MOIA-2024-annual-report_9-TAGGED_FINAL.pdf at 5.

² *See id.* at 7; *see also Population*, NYC DEP’T OF CITY PLAN. (last visited Dec. 12, 2025).

³ 2023 Annual Report On New York City’s Immigrant Population and Initiatives of the Office, MAYOR’S OFF. OF IMMIGR. AFFS. (2023), available at https://www.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-2023_Final.pdf at 15.

⁴ 2024 Report on New York City’s Immigrant Population, *supra* note 1, at 8 n.7.

Immigrant New Yorkers fuel NYC's economy by supporting a number of critical industries: restaurant and other food services, construction, and home health care services have workforces that consist of more than 50 percent of immigrant employees.⁵

NYC and NYC H+H, submit this comment because of their strong interest in ensuring that all New Yorkers are able to access critical health, nutrition, and housing resources, in accordance with federal, state, and local laws. From decades of experience, NYC knows that inclusive laws and policies benefit the City as a whole, ensuring its health, safety, and general welfare.

II. THE PROPOSED RULE WILL CHILL NEW YORKERS, INCLUDING U.S. CITIZENS, FROM ACCESSING IMPORTANT PUBLIC BENEFITS

By removing the purportedly "overly restrictive" requirements enumerated in the 2022 Final Rule regarding the public charge ground of inadmissibility without providing immediate, clear, and specific guidance, DHS would create confusion for noncitizen and mixed-status families alike and leave them with unacceptable choices. DHS acknowledges that "individuals who might choose to disenroll from or forgo future enrollment in a public benefits program include aliens as well as U.S. citizens who are members of mixed-status households." NPRM at 52,170. Based on NYC's experience with the 2019 Final Rule, the City expects that there will be noticeable disenrollment from public benefits programs, and that this chilling effect will have significant negative impacts not only on immigrant families but on NYC as a whole. The impact of the 2018 proposed rule on the public charge ground of inadmissibility ("2018 Proposed Rule") and subsequent 2019 Final Rule are instructive. In response to the 2018 Proposed Rule, NYC conducted an analysis that estimated the 2018 Proposed Rule would chill public benefits participation among as much as 20 percent of a total population of 1.5 million U.S. citizen and noncitizen New Yorkers at risk of giving up or forgoing benefits for which they may be eligible due to fear and misinformation generated from the 2018 Proposed Rule. Upon the promulgation of the 2019 Final Rule, many of NYC's concerns were realized. Given how much broader the current Proposed Rule is than prior rulemakings on this issue, NYC expects its impact to be far greater.

Following the publication of the 2019 Final Rule, the NYC Department of Health and Mental Hygiene ("NYC DOHMH") was one of many government agencies to document disenrollments from public benefit programs. Staff in NYC DOHMH's Office of Health Insurance Services ("OHIS") saw beneficiaries choose to disenroll from, or decline to enroll in, health insurance programs in direct response to the new policy and concerns about how enrollment may affect their green card application or work permit status. OHIS staff encountered instances where immigration attorneys advised clients to disenroll from health insurance, in some cases incorrectly identifying a risk to future immigration benefit applications. In the context of direct provision of health care, an internal analysis of the 2018 Proposed Rule projected that more than 200,000 NYC H+H patients could change their health seeking behavior in response to the policy, costing the system between \$50 million to \$187 million in the first 12 months of

⁵ 2023 Report On New York City's Immigrant Population, *supra* note 3, at 23.

implementation.⁶ NYC expects the effects of the Proposed Rule to be far greater because of the lack of guardrails in making public charge determinations and the resulting exacerbated chilling effect the proposed unfettered discretion appears intended to create. NPRM at 52,184.

According to the Urban Institute, due to the 2019 Final Rule, 47.8 percent of public-benefit-eligible immigrant families across the country avoided SNAP,⁷ 45 percent avoided Medicaid or the Children's Health Insurance Program ("CHIP"),⁸ and 35.2 percent avoided housing subsidies.⁹ In a 2025 *New York Times* survey,¹⁰ 11 percent of immigrant adults said that they had already stopped participating in a government program that helped pay for food, health, or housing since January due to concerns about immigration status. The Proposed Rule is likely to exacerbate that trend.

NYC felt the chilling effects of the 2019 Final Rule broadly. After the promulgation of the 2019 Final Rule, there was a marked decline in other public benefits utilization among immigrant families: data from the U.S. Census Bureau showed a drop in SNAP utilization among noncitizens and their U.S.-born children.¹¹ And experience has shown that women and children are more likely to be "chilled" in their response to broader negative consequences arising out of the receipt of public benefits.

Notably, even after the 2019 Final Rule was no longer in effect, its impacts did not cease. Immigrant families continued to express fear and reluctance to participate in public programs.¹²

⁶ Declaration of Dr. Mitchell Katz at pages 6-7, *State of New York v. U.S. Dep't of Homeland Security*, No 1:19-cv-07777-GBD (S.D.N.Y., Sept. 9, 2019).

⁷ Hamutal Bernstein, et al., *Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, URBAN INST. (May 2020), available at https://www.urban.org/sites/default/files/publication/102221/amid-confusion-over-the-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-in-2019_3.pdf.

⁸ In New York State, enrollment in Medicaid, CHIP, and other public insurance programs declined by 28 percent among low-income noncitizens and 21 percent among U.S.-born children living in mixed-status households. Randy Capps et al., *Anticipated "Chilling Effects" of the Public-Charge Rule Are Real: Census Data Reflect Steep Decline in Benefits Use by Immigrant Families*, MIGRATION POL. INST. (Dec. 2020), available at <https://www.migrationpolicy.org/news/anticipated-chilling-effects-public-charge-rule-are-real> (New York State dataset available for download).

⁹ Bernstein et al., *supra* note 7.

¹⁰ Drishti Pillai et al., *KFF/New York Times 2025 Survey of Immigrants: Health and Health Care Experiences During the Second Trump Administration*, KFF (Nov. 18, 2025), available at <https://www.kff.org/immigrant-health/kff-new-york-times-2025-survey-of-immigrants-health-and-health-care-experiences-during-the-second-trump-administration/>.

¹¹ Capps et al., *supra* note 8.

¹² Alulema, D., & Pavilon, J., *Immigrants' Use of New York City Programs, Services, and Benefits: Examining the Impact of Fear and Other Barriers to Access*. Center for Migration Studies of New

In 2022, one in six immigrant families with children reported avoiding noncash government benefits in the past year because of concerns about later obtaining a green card.¹³ There is no reason to believe the effects of the current Proposed Rule would be any less damaging, and may even be more so.

III. THE PROPOSED RULE'S SIGNIFICANT COSTS TO NEW YORKERS OUTWEIGH ANY CLAIMED BENEFITS

The Proposed Rule fails to properly address the extent of the harms that would result to individuals not directly subject to public charge inadmissibility, to the City at large, and to City agencies. DHS makes clear that the purpose of these proposed changes is to reduce the use of benefits by noncitizens to achieve cost savings. NPRM at 52,184. But the Proposed Rule will not have the salutary effect DHS desires. On the contrary, it would cause substantial damage to individuals and communities in NYC and across the country and will impose more costs that it saves.

A. Impacts on Public Health in the City

By threatening to condition civil immigration benefits upon an amorphous concept of self-sufficiency and the lack of receipt or future use of public benefits, the Proposed Rule will cause significant damage to individuals' health and the public health, in a manner and scale that the Proposed Rule's cost-benefit analysis does not account for.

Medicaid is a crucial safety-net program relied on by nearly 4 million New Yorkers, including pregnant people, people with disabilities, and those with low income. Medicaid helps keep New Yorkers safe and healthy by providing low- and no-cost health care services. Inclusion of this benefit in future public charge determinations outside the context of long-term institutionalization may force vulnerable New Yorkers to disenroll from Medicaid coverage, increasing the uninsured rate and placing greater strain on state and local safety-net funding streams. New Yorkers may fear that any interaction with the health care system could trigger a public charge determination. The ripple effects of sowing confusion in health care could be catastrophic for immigrant communities and for the city's population as a whole. Furthermore, considering health insurance coverage as a public benefit for the purpose of public charge determinations simply does not make sense. In fact, the 1999 Field Guidance prohibited DHS from taking into account most non-cash benefits *specifically* because "non-cash benefits (other than institutionalization for long-term care) are by their nature supplemental and do not, alone

York (Jan. 2022), available at <https://cmsny.org/wp-content/uploads/2022/01/immigrants-use-of-new-york-city-programs-services-and-benefits-cms-report-013122-final-1.pdf>.

¹³ Dulce Gonzales et al., *One in six adults in immigrant families with children avoided public programs in 2022 because of green card concerns*, URBAN INST. (Nov. 2023), available at <https://www.urban.org/research/publication/one-six-adults-immigrant-families-children-avoided-public-programs-2022>.

or in combination, provide sufficient resources to support an individual or family.” 1999 Field Guidance at 28,692.

People not seeking health care for fear of accessing the treatment directly or due to an inability to pay without Medicaid coverage could lead to disruption in treatment and worsen overall physical and behavioral health outcomes among both citizen- and noncitizen New Yorkers. For example, New Yorkers who have behavioral health needs may reduce their adherence to prescribed or monitored medications or choose not to seek preventative outpatient care. This could severely undermine recovery and worsen their mental health or substance use disorder conditions. At the same time, noncitizens may suffer from increased mental health issues, such as anxiety and depression due to fears and uncertainties associated with the Proposed Rule.

The Proposed Rule also threatens to undermine safe and cost-effective public-health interventions for communicable diseases, such as the flu, tuberculosis, and hepatitis. Infectious disease spreads without regard to immigration status, and disease prevention requires the participation of the entire population. As large groups of people fall out of care and do not receive health education and counseling, immunizations and other prophylaxis, routine testing, and timely treatment for communicable disease, the health of the entire U.S. population is placed at risk. As vaccine coverage decreases, herd immunity decreases, thereby increasing the risk of disease outbreaks and significantly catalyzing the spread of communicable disease in the United States.¹⁴ A decrease in the use of vaccinations fueled the 2018-2019 measles outbreak in NYC, and it has been a factor in measles outbreaks that are currently occurring throughout the United States. For HIV and other STIs, testing and treatment are crucial to preventing onward transmission, and access to biomedical prevention interventions, such as pre- and post-exposure prophylaxis for HIV and doxycycline for certain STIs, can prevent infections from happening in the first place. After years of bringing down new HIV diagnoses in New York City, progress has slowed in the last few years: new HIV diagnoses increased by 5.4% in 2024 compared with 2023.¹⁵ Reducing access to HIV prevention and care will further erode progress in the fight to end the epidemic. This is precisely why immunization and testing services—which benefit entire communities, not just individuals—are explicitly excluded from consideration under the current public charge regulations.

In addition, this Proposed Rule would damage local public health emergency response efforts. Lower use of preventative care services is associated with increases in preventable

¹⁴ Linda Washington-Brown & Rose Wimbish-Tompkins, *Vaccines, Herd Immunity, and COVID-19*, ABNF J. (2021).

¹⁵ New York City Department of Health and Mental Hygiene, *HIV Surveillance Annual Report, N.Y.C. DEP'T OF HEALTH AND MENTAL HYGIENE (2024)*, available at <https://www.nyc.gov/assets/doh/downloads/pdf/dires/hiv-surveillance-annualreport-2024.pdf>.

emergency department visits,¹⁶ which reduce the capacity of hospital emergency departments to respond to surge from public health emergencies.¹⁷ In turn, reduced system capacity to mitigate surge can result in greater morbidity and mortality from the emergency.¹⁸

B. Impacts on New Yorkers' Economic Stability

1. Housing

Under the Proposed Rule, immigration officers could consider federally assisted housing a benefit for the purpose of a public charge determination. This is inappropriate for several reasons. First, individuals without eligible immigration status cannot receive federal housing benefits. See 42 U.S.C. § 1436a. If all members of a household lack eligible immigration status, that household cannot reside in federally-assisted housing. To the extent individuals without eligible immigration status reside in an assisted household, these are members of families where others in the household are citizen or possess eligible immigration status. However, even in these

¹⁶ Daniel C. Payne et al., *Association of Rotavirus Vaccination with Inpatient and Emergency Department Visits Among Children Seeking Care for Acute Gastroenteritis, 2010–2016*, 2(9) JAMA Network Open e1912242 (2019), available at <https://doi.org/10.1001/jamanetworkopen.2019.12242>; Mark W. Tenforde et al., *Influenza Vaccine Effectiveness Against Hospitalizations and Emergency Department or Urgent Care Encounters for Children, Adolescents, and Adults During the 2023–2024 Season, United States*, 81(3) Clinical Infectious Diseases 667–678 (2025), available at <https://doi.org/10.1093/cid/ciae597>; George Rust et al., *Practical Barriers to Timely Primary Care Access: Impact on Adult Use of Emergency Department Services*, 168(15) JAMA Internal Medicine 1705–1710 (2008), available at <https://doi.org/10.1001/archinte.168.15.1705>; Ann S. O'Malley, *After-Hours Access to Primary Care Practices Linked with Lower Emergency Department Use and Less Unmet Medical Need*, 32(1) Health Affairs 175–183 (2013), available at <https://doi.org/10.1377/hlthaff.2012.0494>.

¹⁷ Sanjana Puri et al., *The Need for a New Approach to MCI Readiness in the Era of Emergency Department and Hospital Crowding*, 23(a) Health Security 70–74 (2025), available at <https://doi.org/10.1089/hs.2024.0058>; American College of Emergency Physicians, *Public Health Impact of Emergency Department Crowding and Boarding of Inpatients* (Oct. 2009), available at <https://www.acep.org/siteassets/uploads/uploaded-files/acep/clinical-and-practice-management/policy-statements/information-papers/public-health-impact-of-ed-crowding-and-boarding-of-inpatients.pdf>.

¹⁸ Cassidy M. Dahn et al., *Unexpected ICU Transfer and Mortality in COVID-19 Related to Hospital Volume*, 22(6) Western Journal of Emergency Medicine 907–912 (2022), available at <https://doi.org/10.5811/westjem.2022.8.57035>; Alexander T. Toth et al., *Surge and Mortality in ICUs in New York City's Public Healthcare System*, 49(9) Critical Care Medicine 1439–1450 (2021), available at https://journals.lww.com/ccmjournals/fulltext/2021/09000/surge_and_mortality_in_icus_in_new_york_city_s.6.aspx.

instances, federal assistance does not extend to any individual without eligible immigration status. U.S. Department of Housing and Urban Development (“HUD”) regulations require that assistance to mixed-status households be prorated, so that those household members without eligible immigration status do not receive rental assistance. 24 C.F.R. 5.520.¹⁹ Second, contrary to the misguided logic of the Proposed Rule, the fact that an applicant for adjustment of status resides in public housing or a Section 8-assisted unit with their family demonstrates they are *less* likely to become a public charge. Living in stable housing increases the chances that household members will remain in school, learn a skill, or enter or remain in the job market, thus demonstrating self-sufficiency rather than future dependence on government benefits.²⁰ As such, elderly or disabled individuals living with their families in federally-assisted housing have support systems in place, which will likely decrease the chances such applicants will need to resort to government assistance for support should their adjustment of status applications be granted. And younger individuals are likely to have the opportunity to benefit from the support and guidance of older members of their household.

In the Proposed Rule, DHS recognizes that families, “includ[ing] aliens and U.S. citizens who are members of mixed-status households,” may disenroll from or forgo enrollment in public benefits programs rather than risk a public charge determination should the Proposed Rule become effective.²¹ NPRM at 52,193. This unfortunate consequence will likely lead to a larger population of people, including U.S. citizens, not having access to adequate housing, an increase in housing vulnerability, as well as an increase in homelessness or overcrowding, particularly in localities with an affordable housing shortage. And, in addition to the toll this would take on individuals and families, NYC will likely need to spend more than it saves as it is forced to address the consequences of the Proposed Rule, discussed further in Section III, *infra*.

2. Food Security

The Proposed Rule will discourage immigrants from utilizing critical food and nutrition benefits, the positive outcomes of which transcend nutrition alone. Impacted New Yorkers would include noncitizens who are eligible for certain limited NYS public benefits as persons who are

¹⁹ See also *How is assistance calculated when the family includes one or more ineligible non-citizens?*, HUD Exch. (Jan 2022), available at <https://www.hudexchange.info/faqs/4072/how-is-assistance-calculated-when-the-family-includes-one-or-more/>.

²⁰ See, e.g., Megan Gallagher et al., *Aligning Housing and Education: Evidence of Promising Practices and Structural Challenges*, THE URBAN INST. (Sept.2020), available at https://www.urban.org/sites/default/files/publication/102704/aligning-housing-and-education_0.pdf.

²¹ Additionally, the removal of the definition of “household,” coupled with the removal of the definition of “receipt (of public benefits),” does away with limitations that restrict the notion of household to one’s family members, and potentially expands considerably the kinds of living arrangements and assistance scenarios that might work against individuals when they are assessed for the likelihood of becoming a public charge.

Permanently Residing Under Color of Law, U.S. citizens with family member petitions that allow them to live permanently in the United States, and persons granted deferred action, including the recipients of DACA.

A loss of SNAP benefits will increase financial constraints in low-income immigrant families. Food-insecure households may have to choose between spending limited resources on food or on other needs, including health care. Households reporting very low food security have also reported skipping medications to save money.²² Ultimately, the lack of proper food, nutrition, and medication leads to significant health problems and resulting expenses. Food insecurity is linked to serious health conditions such as diabetes, obesity, complications in pregnancy, low birth weight, and mental health problems.²³ Food-insecure children are almost twice as likely to experience poor physical and mental health compared to children in food-secure families, including increased risk for anemia, asthma, and depression.²⁴

The Proposed Rule fails to consider the many benefits of nutrition assistance programs such as SNAP, and the ways in which they vitally contribute to recipients' self-sufficiency.

C. Impacts on the Wellbeing of the City's Children

The Proposed Rule would have disproportionate impacts on women, pregnant individuals, infants, and children, in particular.²⁵ Many children in immigrant families are U.S. citizens, but their parents' fear of using public benefits could prevent the whole family from accessing services for which they are eligible.²⁶ A recent survey showed that the share of immigrant adults who said they avoided applying for a government program that helps pay for food, housing, or health care in the past 12 months because they did not want to draw attention

²² Dena Herman et al., *Food Insecurity and Cost-Related Medication Underuse Among Nonelderly Adults in a Nationally Representative Sample*, 105(10) AM. J. PUB. HEALTH e48-59 (2015), available at <https://pubmed.ncbi.nlm.nih.gov/26270308/>.

²³ Food Research and Action Center, *The Role of the Supplemental Nutrition Assistance Program in Improving Health and WellBeing* (Dec. 2017), available at <https://frac.org/wp-content/uploads/hunger-health-role-snap-improving-health-well-being.pdf>.

²⁴ Craig Gunderson and James P. Ziliak, *Food Insecurity and Health Outcomes*, 34(11) HEALTH AFFAIRS 1830-1839 (2015), available at <https://pubmed.ncbi.nlm.nih.gov/26526240/>.

²⁵ Munira Z. Gunja, et al., *How the Affordable Care Act has helped women gain insurance and improved their ability to get health care*, THE COMMONWEALTH FUND (2017), available at <https://www.commonwealthfund.org/publications/issue-briefs/2017/aug/how-affordable-care-act-has-helped-women-gain-insurance-and>.

²⁶ Leah Zallman et al., *Implications of changing public charge immigration rules for children who need medical care*, JAMA PEDIATRICS (2019).

to their or a family member's immigration status rose from 8% to 12% between 2023 and 2025, with an increase from 11% to 18% among parents.²⁷

Reduced access to prenatal care for immigrant parents increases the rate of stillbirths, preterm births, and babies being born sick and with complications, which can have a negative health impact throughout the baby's life. Medicaid and CHIP have been shown to improve access to preventive care, especially for children, including dental care²⁸ and immunization.²⁹ This care reduces infant and child mortality,³⁰ as well as the risk of disability, obesity, and hospitalizations in adulthood,³¹ and improves educational outcomes.³² If an eligible immigrant family opts out of Medicaid or CHIP for their child due to confusion and fear associated with the Proposed Rule, that child may not receive routine and preventative health care that is essential to preventing serious illness. This would impact not only the child in question, but all other students in that child's educational environment. Furthermore, children who are disenrolled from Medicaid or CHIP are more likely to have unmet mental health treatment needs.³³ This can lead to poor mental health, educational attainment, employment, and other quality of life outcomes later in adulthood.

²⁷ Samantha Artiga, et al., *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KAISER FAM. FOUND. (Dec. 2, 2025), available at <https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/>.

²⁸ Brandy Lipton et al., *Previous Medicaid expansion may have had lasting positive effects on oral health of non-Hispanic black children*, HEALTH AFFAIRS (2016), available at <https://pubmed.ncbi.nlm.nih.gov/27920313/>.

²⁹ JL Holl JL et al., *Evaluation of New York state's Child Health Plus: access, utilization, quality of health care, and health status*, PEDIATRICS (2000), available at ; <https://pubmed.ncbi.nlm.nih.gov/10699149/>.

³⁰ Chintan B. Bhatt & Consuelo M. Beck-Sague, *Medicaid expansions and infant mortality in the United States*. AM. J. PUB. HEALTH (2018), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC5844390/>; David Murphey, *Health Insurance Coverage Improves Child Well-Being*, Child Trends (2017), available at <https://www.childtrends.org/publications/health-insurance-coverage-improves-child-well>.

³¹ Sarah Miller & Laura Wherry, *The long-term effects of early life Medicaid coverage*, J. HUM. RESOURCES (July 2018).

³² Sarah Cohodes et al., *The effect of child health insurance access on schooling: Evidence from public insurance expansions*, NAT'L BUREAU OF ECON. RSCH. (May 2014), available at https://www.nber.org/system/files/working_papers/w20178/w20178.pdf.

³³ Leanne Derigne et al., *The influence of health insurance on parent's reports of children's unmet mental health needs*, MATERN. CHILD HEALTH J. (2009), available at <https://link.springer.com/article/10.1007/s10995-008-0346-0>.

In addition, the Proposed Rule may cause immigrant parents of eligible U.S.-citizen children to forgo or disenroll from federal housing subsidies and SNAP, which would similarly harm child welfare across NYC.³⁴ The absence of safe and stable housing and nutrition can negatively impact children's overall well-being and ability to learn and concentrate in a school environment.³⁵ The potential negative health impacts of housing insecurity on children include poor physical, social, and mental health outcomes, cognitive development, and educational outcomes. In addition, schooling for children experiencing homelessness is often interrupted and delayed, and children experiencing homelessness are twice as likely to have a learning disability, repeat a grade, or to be suspended from school.³⁶ Section 8 and other housing benefits can help reduce housing insecurity and avoid these negative consequences. And access to SNAP during early childhood is associated with greater educational attainment.³⁷ Children in SNAP households are at reduced risk for poor educational outcomes such as repeating a grade,³⁸ and girls in families enrolled in SNAP during the child's gestation and early childhood are more likely to have increased educational and employment outcomes, and are less likely to receive public assistance in the future.³⁹

Ultimately, DHS ignores this robust evidence that these forms of public assistance do not render families reliant on the government, but rather help to stabilize them and support their economic independence. In failing to account for the downstream and long-term benefits of housing and health assistance to children, the Proposed Rule fails to acknowledge the full scope of its impact on immigrant and U.S. citizen children alike.

³⁴ See Mary Cunningham & Graham MacDonald, *Housing as a Platform for Improving Education Outcomes among Low-Income Children*, THE URBAN INST. (May 2012), available at <https://www.urban.org/sites/default/files/publication/25331/412554-Housing-as-a-Platform-for-Improving-Education-Outcomes-among-Low-Income-Children.Ppdf>; Page, M. (March 2017). *The intergenerational transmission of education: The long reach of child health and nutrition programs*, UC Center Sacramento; Bacon White Paper. Accessed at https://wpn-x.ucds.edu/events/event-files-and-images/BaconWhitePaper_2.23.17.pdf.

³⁵ Brenda Chen, *How Housing Instability Affects Educational Outcomes*, The Urban Inst. (Feb. 28, 2024).

³⁶ *Mental health effects of poverty, hunger, and homelessness on children and teens*, AM. PSYCH. ASS'N, available at <https://www.apa.org/topics/socioeconomic-status/poverty-hunger-homelessness-children> (last visited Dec. 12, 2025).

³⁷ Hilary Hoynes et al., *Long-run impacts of childhood access to the safety net*, THE AM. ECON. REV. (2016); Nisha Beharie et al., *A protective association between SNAP participation and educational outcomes among children of economically strained households*. J. HUNGER ENV'T NUTRITION (July 2017), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC5513186/>.

³⁸ Beharie et al., *supra* note 37, at 7.

³⁹ Hoynes, *supra* note 37, at 903-34.

NYC is also deeply concerned about the chilling effect the Proposed Rule could have on the willingness of families who have eligible children to enroll in means-tested early childcare and extended day programs for schoolchildren, which are uniquely positioned to serve New York City's most vulnerable families. New York City Public Schools ("NYCPS") ensures a free, full-day, high-quality pre-kindergarten ("pre-K") seat for every four-year-old living in NYC. NYC also meets early childhood needs by offering a variety of 3-K and pre-K program types, including extended day and year seats, as well as child care seats for infants and toddlers, funded by the federal Child Care and Development Block Grant (CCDBG).⁴⁰ The lengthened school day and year-round service maximize educational opportunities for 3-K and pre-K children and help prevent summer learning loss while supporting families in their professional and educational pursuits. If qualified families decline to avail themselves of this opportunity for fear that these services will be held against them later, not only will those families experience unnecessary hardship, but it will also be more difficult for NYC to deliver on its mandate to provide a sound, basic education to all students starting in kindergarten. *See Campaign for Fiscal Equity v. New York*, 86 N.Y.2d 307, 316 (1995) (holding that the New York Constitution requires that the State provide all children of the state an opportunity for a sound basic education); *see also* N.Y. Const., art. XI. Consistent with longstanding U.S. Supreme Court precedent in *Plyer v. Doe*, 457 U.S. 202 (1982), NYCPS provides elementary and secondary education to all children in the City, without regard to immigration status, and it helps teachers and schools when every student enters elementary school prepared to succeed. Additionally, as to infants and toddlers served in DOE child care seats, it is at those early ages that trained professionals are able to identify developmental concerns and make referrals to NYC's Early Intervention Program, through which all NYC children can receive evaluations and services, when needed, to support their growth.⁴¹ This is often a first step in ensuring that NYCPS meets its obligations under the Individuals with Disabilities Education Act ("IDEA").⁴²

Furthermore, the Proposed Rule may lead eligible families to choose not to enroll their children in Head Start programming, including Early Head Start, which has been critical in

⁴⁰ Due to the requirements of the federal grant, CCDBG-funded seats are only open to families who qualify; among other things, to be eligible, a family must demonstrate low-income status.

⁴¹ *See generally* Susan Walker et al., *Early childhood stimulation benefits adult competence and reduces violent behavior*, PEDIATRICS (2011), available at <https://pubmed.ncbi.nlm.nih.gov/21518715/>; Marie McCormick et al., *Early intervention in low birth weight premature infants: results at 18 years of age for the Infant Health and Development Program*, PEDIATRICS (2006), available at <https://pubmed.ncbi.nlm.nih.gov/16510657/>; Richard C. Adams et al., *Early Intervention, IDEA Part C Services, and the Medical Home: Collaboration for Best Practice and Best Outcomes*, PEDIATRICS (2013), available at <https://pubmed.ncbi.nlm.nih.gov/24082001/> (describing the benefits of early intervention programs).

⁴² These referrals for special education evaluations and services continue in NYCPS 3-K and pre-K programs and is another reason robust participation is helpful: it ensures students' needs are identified and they begin receiving necessary supports to their education at a young age.

enabling NYCPS to meet its early childhood commitment to NYC families. Through its Head Start grant, NYCPS has historically offered more than 5,000 pre-K/3-K Head Start seats, and more than 125 infant and toddler Early Head Start seats, to families through contracts with delegate providers. And independent childcare providers offer thousands of additional Head Start seats in the City, which complement the portfolio of free programs offered by NYCPS. Since the Proposed Rule offers no guidance on what may be considered a public benefit for purposes of a public charge determination, it is possible that USCIS officers would consider participation in Head Start programs as a part of their decision-making. Thus, if the Proposed Rule is adopted, families will likely be reluctant to enroll in Head Start, which will thwart the ability of programs in New York City to reach families most in need of education and services. Notably, in addition to providing general early childhood education, Head Start programs support the whole child and family by ensuring health screenings and health services for children and by supporting parents in achieving their own goals, including as to employment, housing, and adult education. Research has found that participation in Head Start is associated with a 93% reduction in a child's risk of entering foster care.⁴³

In sum, when every student enters school prepared, NYCPS is better able to achieve its mission to support student success and fulfill its legal obligations. Chilling families from enrolling in critical early childhood programs for which they are eligible is not only harmful to families themselves, but it would also weaken the NYCPS system as a whole.

IV. THE ECONOMIC COSTS THE PROPOSED RULE WOULD IMPOSE ON NEW YORK CITY OUTWEIGH ANY ALLEGED BENEFITS

The Proposed Rule's conclusory statement that it "would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government," NPRM at 52,221, is incorrect and inconsistent with Executive Order 13132. As this Comment makes clear, the Proposed Rule would lead many New Yorkers to withdraw from or forgo public benefits, which would result in these New Yorkers having less money to spend on necessities, and in turn, would cause losses to the City's economy due to diminished spending, lower business revenue, and reduced in job creation. Economic gains from public benefits, such as SNAP, are greater than the volume of direct assistance due to a "multiplier" effect. SNAP benefits are spent at local food retailers, with SNAP recipients spending more dollars on food at local retailers compared to eligible non-recipients.⁴⁴ In NYC, for every dollar of SNAP spent, \$1.54 is generated in the

⁴³ Sacha Klein, Lauren Fries & Mary M. Emmons, *Early Care and Education Arrangements and Young Children's Risk of Foster Care Placement: Findings from a National Child Welfare Sample*, 83 CHILDREN AND YOUTH SERVS. REV. 168-178 (Dec. 2017).

⁴⁴ Patrick Canning & Rosanna M. Morrison, *Quantifying the Impact of Snap Benefits on the U.S. Economy and Jobs*, U.S. DEP'T OF AGRICULTURE (July 18, 2019), available at <https://www.ers.usda.gov/amber-waves/2019/july/quantifying-the-impact-of-snap-benefits-on-the-u-s-economy-and-jobs>.

economy.⁴⁵ The City would also realize less tax revenue if immigration officers reject noncitizens more frequently for adjustment of status due to their use of certain benefits. It is well documented that obtaining legal status enables immigrants to earn higher wages,⁴⁶ and thus contribute more significantly to the City's tax base.

Three impacts to the City are especially troubling, as detailed below: (i) increased costs due to more uncompensated health care and increased use of emergency departments; (ii) negative impacts on housing stability; and (iii) costs to the City due to municipal employee and resident outreach.

A. The Proposed Rule Will Force the City to Absorb the Cost of Uncompensated Medical Care and Higher Emergency Medical Costs

Should the Proposed Rule be finalized, safety-net providers will see a dramatic increase in uncompensated care and emergency costs as immigrant families disenroll from public insurance programs. Uninsured individuals who lack access to primary care are generally more likely to use emergency departments for preventable care or nonemergency conditions that could have been avoided through timely use of primary care.⁴⁷ Communities with high uninsurance rates are more likely to have unmet health needs, the effects of which can spill over to insured members of the same community.⁴⁸ According to one analysis, approximately 70 percent of care provided to uninsured patients is uncompensated.⁴⁹ Contrary to DHS assertion that immigrants' disenrollment from public health insurance would lead to a *reduction* in government expenditure, studies have shown that the money states "save" from not expanding

⁴⁵ *Id.*

⁴⁶ Sherrie A. Kossoudji & Deborah A. Cobb-Clark, *Coming out of the Shadows: Learning about Legal Status and Wages from the Legalized Population*, 20 J. OF LABOR ECON. 598, 612 (2002).

⁴⁷ Aldo Rosano, et al., *The Relationship Between Avoidable Hospitalization and Accessibility to Primary Care: A Systematic Review*, 23(3) EUR. J. PUB. HEALTH 356–360 (2013); see also Jacob D. Beniflah et al., *Effects of Immigration Enforcement Legislation on Hispanic Pediatric Patient Visits to the Pediatric Emergency Department*, 52(12) CLINICAL PEDIATRICS, 1122-26 (2013) (some immigrants may avoid not only primary care services but also emergency department visits, potentially leading to deleterious health outcomes and early mortality over time).

⁴⁸ José A. Pagán & Mark Pauly, *Community-Level Uninsurance and the Unmet Medical Needs of Insured and Uninsured Adults*, 2006 HEALTH SERVS. RES. 788-803 (2006).

⁴⁹ Teresa Coughlin et al., *Uncompensated Care for the Uninsured in 2013: A Detailed Examination*, KAISER FAM. FOUND. (2014), available at <https://www.kff.org/uninsured/report/uncompensated-care-for-the-uninsured-in-2013-a-detailed-examination/>.

Medicaid and enrolling people into public insurance is *far outweighed* by the resulting costs of uncompensated care.⁵⁰

The financial impact of increased uncompensated care costs resulting from uninsured individuals seeking care at New York hospitals, including NYC's public hospital system, is estimated to be at least \$1.3 billion.⁵¹ This is a cost that will be felt by all taxpayers. Any increase in the population of uninsured patients has a multiplier effect on NYC's public hospitals: patients lose access to care, and the health system loses critical insurance revenue, further straining the hospital system's already stretched finances. Individuals and families who fear using Medicaid or CHIP may also turn to city- and state-funded outpatient services. For example, the hundreds of community based behavioral health providers who contract with the NYC Health Department's Division of Mental Hygiene are likely to see a significant increase in patients, which would result in additional strain on the public behavioral health service system.

There is also a cost to NYC when individuals choose not to seek treatment at all. More specifically, NYC faces significant economic impact when responding to increased cases of communicable diseases. For example, the NYC Health Department's response to the 2018-2019 measles outbreak cost the City \$8.4 million dollars.⁵² It also occupied 559 staff members' time, creating a downstream impact on other important public health activities and programming. Addressing other communicable diseases is also costly: influenza costs the U.S. billions of dollars per year, including medical costs, lost working days, and deaths, much of which is avoidable when vaccination coverage is high,⁵³ and the medical cost saved by avoiding just one HIV infection is estimated at \$229,800.⁵⁴

All of these costs to the City increase when immigrant and mixed-status families are fearful of obtaining health insurance coverage or treatment. NYC is strongly opposed to any

⁵⁰ Craig Garthwaite et al., *Hospitals as Insurers of Last Resort*, 10(1) AM. ECON. J.: APPLIED ECON. 1-39 (2018).

⁵¹ *NYS Impact Analysis Shows House Reconciliation Proposals' Devastating Impact on State's Essential Plan and Hospitals*, GREATER N.Y. HOSP. ASS'N (2025), available at <https://www.gnyha.org/news/nys-impact-analysis-shows-house-reconciliation-proposals-devastating-impact-on-states-essential-plan-and-hospitals>.

⁵² Jane R. Zucker et al., *Consequences of Undervaccination — Measles Outbreak, New York City, 2018–2019, 2020* NEW ENG. J. OF MED. 1009-17, available at <https://www.nejm.org/doi/full/10.1056/NEJMoa1912514>.

⁵³ CDC Foundation, *Flue Costs the U.S. More Than \$87 Billion Annually*, available at <https://www.cdcfoundation.org/pr/flu-costs-United-States-87-billion-annually>.

⁵⁴ Bruce R. Schackman et al., *The Lifetime Medical Cost Savings from Preventing HIV in the United States*. 53(4) MED. CARE 293-301 (2015), accessible at <https://pmc.ncbi.nlm.nih.gov/articles/PMC4359630/>.

efforts to disenroll or discourage eligible individuals from obtaining health insurance coverage or accessing treatment.

B. The Proposed Rule Will Increase Housing Insecurity

As discussed above, due to the chilling effect the Proposed Rule would have on households receiving government housing assistance, immigrant and mixed-status households are more likely to experience housing insecurity because it will become increasingly difficult for them to locate affordable housing. At large enough volumes, participant self-selection out of housing assistance can exacerbate the housing crisis, increase use of emergency housing or shelter resources, and drain NYC's financial resources, counteracting any purported Federal savings from public benefit disenrollments.

Additionally, as DHS recognizes, landlords participating in federal housing assistance programs are likely to experience financial strain as a result of the rescission of current regulations which do not consider Section 8 to be public assistance for the purpose of public charge determinations. NPRM at 52,200. Mixed-status Section 8 households may feel they need to forgo housing assistance to avoid a public charge determination, which in turn could render those eligible households less able to afford the rent. Landlords will then have little choice but to bring nonpayment proceedings to evict these families, with dire consequences for household members as well as for the landlords who depend in part on ongoing federal assistance to keep their properties in clean, safe, and habitable condition. The financial strain and uncertainty caused by the Proposed Rule would ultimately disincentivize landlords from future participation in the Section 8 program, reduce the number of families able to afford rents in these buildings, and cause further hardship and strain to landlords overseeing an aging housing stock.

C. The Proposed Rule Will Force the City to Incur Costs of Staff Education and Public Outreach

In its preliminary costs-benefits analysis, DHS does not adequately account for state and local costs associated with consumer education and outreach. NYC will be required to expend considerable financial resources and staff time to educate and train NYC employees about how the rule change would impact agency activities, as well as how to respond to client requests. Furthermore, the Proposed Rule reinstates and adds extensive information collection requirements, NPRM at 52,222, which will not only increase administrative burden for individuals but also for state and local benefit-administering agencies.

Accurate consumer messaging will also require significant investment. The nature of the Proposed Rule affords unchecked and undescribed discretion to immigration officers in making public charge determinations, while providing only the vaguest parameters by which an immigrant can assess their own individual risk. This lack of clarity makes it exceedingly difficult to provide effective messaging and legal advice, and reacting to the changes suggested by the Proposed Rule will require greater time and investment than previous similar efforts under the 2019 Final Rule.

V. CONCLUSION

For all the reasons above, NYC and NYC H+H strongly oppose the Proposed Rule, and call upon DHS to withdraw it.

Sincerely,



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