



1350 I STREET NW
SUITE 700
WASHINGTON, DC 20005
202-588-5180
NWLC.ORG

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U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: DHS Docket No. USCIS-2025-0304, Notice of Proposed Rulemaking: Public Charge Ground of Inadmissibility [CIS No. 2836–25; RIN 1615–AD06]

The National Women’s Law Center (NWLC) submits these comments in opposition to the Department of Homeland Security’s (DHS, or the Department) Notice of Proposed Rulemaking (NPRM) published in the Federal Register on November 19, 2025.¹ NWLC strongly opposes any change in policy or regulation regarding the “public charge” determination that undermines the health, well-being, and economic security of immigrant women, their families, and their communities.

Since 1972, NWLC has fought for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. NWLC advocates for improvement and enforcement of our nation’s civil rights laws and public benefits programs, with a particular focus on the needs of women of color, immigrant women, LGBTQIA+ people, and women with low incomes and their families. These communities will be especially harmed by the Department’s proposal to rescind its 2022 public charge rule and instead leave the determination of whether an individual applying for admission to the U.S. or for lawful permanent resident (LPR) status is a “public charge” to the unbounded discretion of U.S. Citizenship and Immigration Services (USCIS) officers—an arbitrary move that invites bias, removes transparency, and runs afoul of the Department’s obligations under the Administrative Procedure Act (APA).²

NWLC has joined hundreds of other organizations in coalition comments filed in opposition to this proposed rule because we share the view expressed in those comments that:

- DHS’s decision to rescind—but not replace—the 2022 regulation will leave a void where there are now clear guidelines about which factors can and cannot be considered in the public charge assessment used to evaluate LPR (“green card”) applications. Unless and until DHS publicly issues the “appropriate policy and interpretive tools” for U.S. Citizenship and Immigration Services (USCIS) officers that

¹ Public Charge Ground of Inadmissibility, 90 Fed. Reg. 52168 (Nov. 19, 2025) [hereinafter “2025 NPRM”].

² 5 U.S.C. §§ 551–559.

the NPRM claims are forthcoming, there will be no clear public charge policy available to the public—including to the people to whom the policy ostensibly applies.

- While DHS fails to define a new public charge standard in the NPRM, the Department makes clear that it intends to give USCIS officers extremely broad discretion in public charge determinations. The NPRM rejects the long-standing precedent—based on decades of case law and written into the 1999 field guidance³ as well as the 2022 final rule—that a person can only be found to be a public charge if they are “primarily dependent on the government for subsistence, as demonstrated by either (i) the receipt of public cash assistance for income maintenance or (ii) institutionalization for long-term care at government expense.” Instead, the NPRM explicitly indicates that DHS’ vision of “appropriate policy” would consider “any type of public benefits,” as well as a range of health conditions, as an indication that the applicant is a public charge. And the NPRM proposes to rescind the 2022 regulation’s clarification that the use of (or even applying for) health or social services by a green card applicant’s eligible family members is not grounds for a public charge determination.
- The predictable outcome of the absence of any clear guidelines with a grant of broad discretion to USCIS officers is a severe chilling effect: Lawful immigrants and U.S. citizens in mixed immigration status families will avoid accessing public benefits that they need—and for which they are eligible—out of fear that they will jeopardize their own or a family member’s green card application.⁴ As the NPRM itself indicates, the proposed rule will thus make our nation sicker and poorer, harming our health care systems, schools, communities, and the broader economy.⁵
- Finally, by deciding to implement a new public charge policy through sub-regulatory “policy and interpretive tools,” DHS asks the public to consider its proposal to strike the 2022 public charge regulation without explaining what will replace it—or providing an opportunity to weigh in on that replacement. This approach contravenes the notice and comment requirements of the APA.

We will not restate the details of those arguments here, but we write separately to underscore the ways in which children, women, and LGBTQIA+ individuals are especially likely to suffer as a result of the Department’s proposal. For the reasons detailed in the comments that follow, the Department should immediately withdraw its current proposal and instead dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families.

I. Rescinding the 2022 public charge rule will harm children.

³ Department of Justice, Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28689 (May 26, 1999), *available at* <https://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds>.

⁴ Indeed, the NPRM 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.” 2025 NPRM, 90 Fed. Reg. 52170.

⁵ 2025 NPRM, 90 Fed. Reg. 52218 (acknowledging potential impacts of the Department’s proposal include “[i]ncreased poverty, housing instability, reduced productivity, and lower educational attainment;” “[w]orse health outcomes;” “[h]igher prevalence of communicable diseases;” and negative impacts on infants’ and children’s growth and development as a result of immigrant parents forgoing prenatal care, other health care services, and nutrition assistance). The NPRM also estimates in its economic impact analysis that 447,000 people will disenroll or forgo enrollment in SNAP, 364,000 in Medicaid, 64,000 in Supplemental Security Income (SSI), 59,000 in CHIP and 16,000 in cash assistance under Temporary Assistance for Needy Families (TANF). *Id.* at 52214 (Table VI.10).

One in four children in the U.S.—19 million children—have at least one immigrant (i.e., not U.S.-born) parent. The majority of these children are U.S. citizens, either in mixed-immigration status households (with noncitizen parents) or with naturalized citizen parents. Only about three percent of children in the U.S. are themselves noncitizens.⁶

The NPRM seems to indicate that DHS may expand scrutiny of individuals applying for admission or adjustment to their status in the U.S. to include examination of their family members in the public charge determination. By rescinding virtually all of the 2022 final rule, the proposed rule removes the regulatory definition of “receipt (of public benefits)” (8 CFR Part 212.21(d)) that explicitly states that applying for or receiving benefits on behalf of family members is not considered “receipt,” which appears to leave room for officers to consider benefits used by family members who are not seeking to adjust their status. Without that clear language, it is impossible for immigrants (or benefits providers) to know whether use of benefits by family members—including U.S. citizen children—will harm them when they seek to obtain LPR status.

Children in immigrant families already face an elevated risk of economic insecurity, and are less likely to access help due in part to flawed policies that create barriers to immigrant families’ ability to access critical public benefits.⁷ Children thrive when they and their parents can access needed health care, and when their families have enough to eat and have a roof over their heads. 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.⁸ Children whose families receive housing assistance are more likely to have a healthy weight and rate higher on measures of well-being, especially when housing assistance is accompanied by food assistance.⁹ 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.¹⁰ Research shows that not having the essentials of food, shelter, and health care can have life-long, irreparable negative impacts on developing children.¹¹ When families lose health coverage and nutrition and housing assistance, they must expend resources to meet those basic needs—or go without. The constant stress of struggling to access basic needs can be toxic to young brains and bodies.¹²

⁶ Drishti Pillai, Akash Pillai & Samantha Artiga, *Children of Immigrants: Key Facts on Health Coverage and Care*, KFF, (updated April 10, 2025), <https://www.kff.org/racial-equity-and-health-policy/children-of-immigrants-key-facts-on-health-coverage-and-care/>.

⁷ Tanya Broder & Gabrielle Lessard, *Overview of Immigrant Eligibility for Federal Programs*, NAT’L IMMIGRATION LAW CTR. (May 2024), <https://www.nilc.org/wp-content/uploads/2024/05/overview-immeligfedprograms-2024-05-08.pdf>; Kinsey Alden Dinan, *Federal Policies Restrict Immigrant Children’s Access to Key Public Benefits*, NAT’L CTR. FOR CHILDREN IN POVERTY (March 2005), available at <https://files01.core.ac.uk/download/pdf/161435406.pdf>.

⁸ K. Robin Yabroff et al., *Health Insurance Disruptions and Care Access and Affordability in the U.S.*, AM. J. PREVENTIVE MEDICINE 61, no. 1 (2021): 3–12, <https://doi.org/10.1016/j.amepre.2021.02.014>.

⁹ Larisa Antonisse & Rachel Garfield, *The Relationship Between Work and Health: Findings from a Literature Review*, KFF (Aug. 7, 2018) <https://www.kff.org/medicaid/the-relationship-between-work-and-health-findings-from-a-literature-review/>.

¹⁰ *Report Card on Food Security & Immigration*, CHILDREN’S HEALTH WATCH (Feb. 2018), <https://childrenshealthwatch.org/wp-content/uploads/Report-Card-on-Food-Insecurity-and-Immigration-Helping-Our-Youngest-First-Generation-Americans-to-Thrive.pdf>

¹¹ Rourke O’Brien & Cassandra Robertson, *Medicaid and Intergenerational Economic Mobility*, INST. FOR RESEARCH ON POVERTY (2015), <https://search.library.wisc.edu/catalog/9910223409002121>; Andrew Goodman-Bacon, *The Long-Run Effects of Childhood Insurance Coverage: Medicaid Implementation, Adult Health, and Labor Market Outcomes* (NBER Working Paper No. 22899, Dec. 2016), www.nber.org/papers/w22899.

¹² Michel Boudreaux et al., *The Long-Term Impacts of Medicaid Exposure in Early Childhood: Evidence from the Program’s Origin*, J. HEALTH ECON. (Nov 2019), <https://www.ncbi.nlm.nih.gov/pubmed/26763123>.

By sowing fear and uncertainty in immigrant communities, the proposed rule would prevent families from accessing needed benefits—and would change the lives not only of children, but of countless families across the United States. These children do not live in isolation; they will grow up and live in communities where their individual success is critical to the strength of the country’s future workforce and our collective economic security. It is important to America’s future to do everything we can as a nation to ensure that these children succeed—and at the very least, stop putting their healthy development and education at risk by destabilizing their families. Forcing parents to choose between their own immigration status—or the ability to reunite their family in the future—and their children’s access to these benefits is short-sighted and will harm all of U.S. society.

II. Rescinding the 2022 public charge rule will harm women.

Throughout their lives, immigrant women in the U.S. typically face a higher risk of economic insecurity than men because of pay disparities and other forms of discrimination, overrepresentation in low-paid work, and disproportionate responsibility for caregiving, among other factors.¹³ For example, immigrant women are paid less on average than U.S.-born women¹⁴ and are disproportionately represented in essential but underpaid jobs in health care, child care, and the service sector.¹⁵ Many immigrant women are caring for children, which can increase financial strain—especially for mothers supporting children on their own.¹⁶ This heightened risk of economic insecurity means that immigrant women’s ability to continue to participate in the programs targeted by the proposed rule is vitally important.

Immigrants already face significant barriers to accessing programs like Medicaid, SNAP, and housing assistance. Discouraging immigrant women’s use of these programs—as the proposed rule does—would further detrimentally impact the livelihood and wellbeing of immigrant women and their families. And it would be particularly harmful to certain groups of immigrant women who can least afford to be put in the position of choosing between programs that support their safety, independence, and economic security and negatively affecting their immigration status.

A. Rescinding the 2022 public charge rule will harm women’s health.

By discarding the 2022 rule’s restraints on the programs to be considered as part of the public charge determination, the proposed rule allows Medicaid to be included—an unprecedented move that poses a dire threat to the health of immigrant women. Medicaid is a critically important program for women, meeting most of women’s health needs throughout

¹³ See, e.g., The Impact of Immigrant Women on America’s Labor Force, Am. Immigration Council (March 8, 2017), <https://www.americanimmigrationcouncil.org/fact-sheet/impact-immigrant-women-americas-labor-force/>; Jasmine Tucker & Julie Vogtman, *Hard Work Is Not Enough: Women in Low-Paid Jobs* (July 2023), https://nwlc.org/wp-content/uploads/2020/04/%C6%92.NWLC_Reports_HardWorkNotEnough_LowPaid_2023.pdf; Ashir Coillberg, A Window Into the Wage Gap: What’s Behind It and How to Close It, NWLC (Feb. 2025), <https://nwlc.org/wp-content/uploads/2025/02/2025-Window-Into-the-Wage-Gap-Factsheet.pdf>; *Sexual Harassment in the Workplace*, NWLC (2016), <https://nwlc.org/wp-content/uploads/2016/11/Sexual-Harassment-Fact-Sheet.pdf>.

¹⁴ See, e.g., *Status of Women in the States: Spotlight on Immigrant Women*, INST. FOR WOMEN’S POL’Y RES. (2018), <https://statusofwomensdata.org/immigrant-women/>.

¹⁵ See, e.g., Ashir Coillberg, *Immigrant Women’s Contributions to Our Economy*, NWLC (May 2025), <https://nwlc.org/wp-content/uploads/2025/05/Immigrant-Workers-FS-5.9.25v1.pdf>; Karla Coleman-Castillo & Veronica Faison, *Four Things You Should Know About How Immigration Impacts Care Work*, NWLC (April 2025), <https://nwlc.org/wp-content/uploads/2025/04/Four-Things-You-Should-Know-About-How-Immigration-Impacts-Care-Work-2.pdf>; Tucker & Vogtman, *Hard Work Is Not Enough*, *supra* note 13.

¹⁶ See Jeanne Batalova, *Immigrant Women and Girls in the United States*, MIGRATION POL’Y INST. (March 4, 2020), <https://www.migrationpolicy.org/article/immigrant-women-united-states>.

their lives.¹⁷ Yet, under this proposed rule, immigrant women who are eligible for Medicaid and to whom the proposed rule would apply face having their use of Medicaid counted against them. This puts them in the untenable situation of having to decide between critical health coverage that keeps them healthy and being able to become a lawful permanent resident. Immigrant women are already less likely to be insured than their citizen counterparts: In 2024, 26 percent of non-citizen women and girls were uninsured, compared to 5.5 percent of native-born women and girls.¹⁸ The proposed rule is likely to widen this gap.

Disenrolling from or avoiding Medicaid coverage would put women's health at risk. Women who have health coverage are more likely to receive preventive care, such as breast cancer and cervical cancer screenings.¹⁹ People with health insurance also have lower mortality rates.²⁰ Conversely, when people do not have health coverage, they are more likely to forgo needed care, leading to worse health outcomes.²¹ And when women forgo medical care, including preventive reproductive health care, because they cannot afford it or do not have health coverage, easily treatable illnesses or medical conditions can escalate, leading to worsening of existing conditions, lengthening of illness, more expensive care and even disability or death.²²

In particular, this proposed rule may discourage women from obtaining prenatal care, which has ramifications not only for their health and their pregnancies, but also for birth outcomes.²³ Lack of adequate health care, including prenatal care, contributes to higher rates of maternal mortality, higher rates of infant mortality, and increased risk of low-infant birth weight.²⁴ Similarly, the proposed rule may discourage women from seeking postpartum care, which is crucial to the health and well-being of mothers, newborns, and families. Forgoing postpartum care could mean that women endure postpartum depression without proper medical, social, and psychological care, skip doctor's visits that address infant feeding, nutrition, physical activity and family planning, or leave other postpartum health issues unaddressed.

B. *Rescinding the 2022 public charge rule will harm women with disabilities.*

¹⁷ See generally, e.g., *By the Numbers*, NWLC (May 2025), <https://nwlc.org/wp-content/uploads/2025/04/BY-THE-NUMBERS-Data-on-Key-Programs-for-the-Well-Being-of-Women-LGBTQI-People-and-Their-Families-2025-4.pdf>.

¹⁸ *NWLC Resources on Poverty, Income, and Health Insurance in 2024* (Sept. 16, 2025), <https://nwlc.org/resource/nwlc-resources-on-poverty-income-and-health-insurance/>.

¹⁹ Munira Z. Gunja et al., *How the Affordable Care Act Has Helped Women Gain Insurance and Improved Their Ability to Get Health Care*, COMMONWEALTH FUND (AUG. 10, 2017), <https://www.commonwealthfund.org/publications/issue-briefs/2017/aug/how-affordable-care-act-has-helped-women-gain-insurance-and>.

²⁰ Steffie Woolhandler & David U. Himmelstein, *The Relationship of Health Insurance and Mortality: Is Lack of Insurance Deadly?*, ANNALS OF INTERNAL MED. (Sept. 2017), <https://pubmed.ncbi.nlm.nih.gov/28655034/>.

²¹ Inst. of Med. Comm. on the Consequences of Uninsurance, *Care Without Coverage: Too Little, Too Late* (2002), <https://pubmed.ncbi.nlm.nih.gov/25057604/>.

²² See, e.g., *id.* and Woolhandler, *supra* note 20; Adam Sonfield, *Beyond Contraception: The Overlooked Reproductive Health Benefits of Health Reform's Preventive Services Requirement*, GUTTMACHER POL'Y REV. (Oct. 17, 2012), <https://www.guttmacher.org/gpr/2012/10/beyond-contraception-overlooked-reproductive-health-benefits-health-reforms-preventive>.

²³ Megan M. Shellinger et al., *Improved Outcomes for Hispanic Women with Gestational Diabetes Using the Centering Pregnancy Group Prenatal Care Model*, MATERNAL CHILD HEALTH J. (Feb. 2017), <https://pubmed.ncbi.nlm.nih.gov/27423239/>.

²⁴ Sarah Partridge et al., *Inadequate Prenatal Care Utilization and Risks of Infant Mortality and Poor Birth Outcome: A Retrospective Analysis of 28,729,765 U.S. Deliveries over 8 Years*, AM. J. OF PERINATOLOGY (July 2012), https://www.researchgate.net/profile/Jacques_Balayla2/publication/230573498_Inadequate_Prenatal_Care_Utilization_and_Risks_of_Infant_Mortality_and_Poor_Birth_Outcome_A_Retrospective_Analysis_of_28729765_US_Deliveries_over_8_Years/links/0deec526dabeb49c3f000000/Inadequate-Prenatal-Care-Utilization-and-Risks-of-Infant-Mortality-and-Poor-Birth-Outcome-A-Retrospective-Analysis-of-28-729-765-US-Deliveries-over-8-Years.pdf.

People with disabilities rely upon benefits like SNAP and Medicaid so that they can stay healthy, continue to work or go to school, and take care of themselves and their families. Many of these individuals are eligible for Medicaid, and unable to obtain private insurance, precisely because of their disability. Because many critical disability services are only available through Medicaid, the proposed rule would prevent many people with disabilities from getting needed services that allow them to manage their medical conditions and participate in the workforce.

While the NPRM asserts that “[i]n the context of any disability, [USCIS] officers would comply with existing law and consider whether or to what extent a disability is likely to impact an alien’s ability to be self-sufficient, ensuring that disability is not used as the sole determinant of an alien’s likelihood at any time of becoming a public charge,”²⁵ the removal of this assurance from the public charge rule itself signals that individuals with disabilities will be subject to additional scrutiny and have this factor—along with any use of benefits that helps them manage their disabilities so they can work and live full lives—weighed against them in any application for LPR status.

C. Rescinding the 2022 public charge rule will harm survivors of domestic violence and sexual assault.

The proposed rule will have a detrimental impact on survivors of domestic violence and sexual assault and their ability to keep themselves and their families safe from abuse. While survivors who seek to adjust their immigration status through VAWA or U pathways, see INA 212(a)(4)(E), are not subject to a public charge determination, many survivors do not fall under those named categories, and will be harmed by this proposal. That is because access to health care, housing, food assistance, and other public benefits plays a pivotal role in helping survivors escape and heal from domestic violence and sexual assault.

While domestic violence and sexual assault occur across the socio-economic spectrum, there are unique challenges and barriers for survivors at the intersection of gender-based violence and economic hardship. Survivors with low incomes face unique challenges and barriers. In order to exercise control over their partners, abusers often actively prevent their partner from attaining economic independence by sabotaging their partner’s economic stability, interfering with access to financial resources, employment, child care, or health care, engaging in reproductive coercion, ruining their credit, leaving them with tax debt, and more.²⁶ Abuse can also result in survivors falling into poverty; violence often undermines survivors’ ability to work, have a place to live, and do what is necessary to pursue a more stable life for themselves and their children. Ending an abusive relationship, moreover, may mean losing not only access to a partner’s income, but also housing, health care, or child care.

Accessing public benefits that help meet basic needs is therefore imperative for women’s safety.²⁷ Survivors’ access to public benefits like housing assistance, SNAP, and Medicaid is fundamental to determining whether they can leave an abusive relationship,²⁸ and critical to

²⁵ 2025 NPRM, 90 Fed. Reg. 52188.

²⁶ See, e.g., Judy Postmus et al., *Understanding Economic Abuse in the Lives of Survivors*, 27 J. INTERPERSONAL VIOLENCE 411–430 (Feb. 2012), <https://journals.sagepub.com/doi/abs/10.1177/0886260511421669>.

²⁷ See, e.g., Eleanor LyonWelfare, *Poverty and Abused Women: New Research and its Implications*, NAT’L RESOURCE CTR. ON DOMESTIC VIOLENCE (Oct. 2000), <https://vawnet.org/material/welfare-poverty-and-abused-women-new-research-and-its-implications>.

²⁸ Eleanor Lyon et al., *Meeting Survivors’ Needs: A Multi-State Study of Domestic Violence Shelter Experiences*, NAT’L INST. OF JUSTICE (Oct. 2008), http://www.vawnet.org/Assoc_Files_VAWnet/MeetingSurvivorsNeeds-FullReport.pdf; Eleanor Lyon et al., *Meeting Survivors’ Needs through Non-Residential Domestic Violence Services & Supports: Results of a Multi-State Study*, NAT’L RESOURCE CTR. ON DOMESTIC VIOLENCE (Nov. 2011), <https://vawnet.org/material/meeting-survivors-needs-through-non-residential-domestic-violence-services->

helping them establish a safer and more stable life. Once again, the proposed rule will place immigrant women in an impossible position by making them fear that they will risk LPR status if they use the benefits they need to secure their own safety.

D. Rescinding the 2022 public charge rule will undermine women's employment.

The proposed rule ignores the positive impact of public benefits in facilitating economic self-sufficiency. There is a large body of research demonstrating positive long-term effects of receipt of many of the benefits that are now likely to be included in the public charge determination, including SNAP and Medicaid. In particular, the use of these benefits often enables workers (especially those in the low-paid workforce) to remain employed.²⁹ Because many low-paid jobs also feature unstable hours and offer few benefits, many workers in these jobs are unable to support themselves and their families on their wages alone.³⁰

Women make up two-thirds of the workforce in the 40 lowest-paying jobs in our economy, and immigrant women in particular are overrepresented in jobs for which demand is high but pay is low, such as housekeeping, home care, child care, retail, and food service jobs.³¹ Thus, counting SNAP, non-emergency Medicaid, and housing assistance against women for the purposes of their immigration status—as the NPRM indicates USCIS officers will be able to do in the absence of the 2022 rule—would actually make it more difficult for many immigrant women to support themselves and their families through work and thus be economically self-sufficient.

E. Rescinding the 2022 public charge rule threatens the well-being of both immigrant care workers and the people who rely on them.

Care work is one low-paid field in which immigrant women are especially overrepresented: One in five child care workers are immigrants, as are more than one in four direct care workers (who help older adults and people with disabilities with dressing, bathing, eating and other daily tasks).³² Despite being essential for children, older adults, and people with disabilities, care work remains undervalued, underpaid, and plagued by workforce shortages as a result of poor job quality. Overall, the median hourly wage of early childhood educators and home care workers in 2023 were \$14.60 and \$16.13, respectively.³³ As a result, many care workers rely on public benefits programs in order to survive: 58 percent of home care workers and 43 percent of

[supports](https://www.ncbi.nlm.nih.gov/pubmed/18458353); Rachel Kimerling et al., *Unemployment Among Women: Examining the Relationship of Physical and Psychological Intimate Partner Violence and Posttraumatic Stress Disorder*, 24 J. INTERPERSONAL VIOLENCE 450-463 (March 2009), <https://www.ncbi.nlm.nih.gov/pubmed/18458353>.

²⁹ See, e.g., Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, 63 Soc. Problems 46-67 (Feb. 2016), <https://academic.oup.com/socpro/article-abstract/63/1/46/1844105>; *Medicaid Is Vital for Women's Jobs in Every Community*, NWLC (June 2017), <https://nwlc.org/wp-content/uploads/2017/06/Medicaid-Jobs-Report.pdf>; *Chart Book: The Far-Reaching Benefits of the Affordable Care Act's Medicaid Expansion*, CTR. BUDGET & POL'Y PRIORITIES (Updated Oct. 21, 2020), <https://www.cbpp.org/research/health/chart-book-the-far-reaching-benefits-of-the-affordable-care-acts-medicaid>.

³⁰ See generally, e.g., Tucker & Vogtman, *Hard Work Is Not Enough*, *supra* note 13; Julie Vogtman & Karen Schulman, *Set Up to Fail: When Low-Wage Work Jeopardizes Parents' and Children's Success*, NWLC (Jan. 2016), <https://nwlc.org/wp-content/uploads/2016/01/FINAL-Set-Up-To-Fail-When-Low-Wage-Work-Jeopardizes-Parents-and-Childrens-Success.pdf>.

³¹ Tucker & Vogtman, *Hard Work Is Not Enough*, *supra* note 13.

³² Coleman-Castillo & Faison, *Four Things You Should Know About How Immigration Impacts Care Work*, *supra* note 13.

³³ *Id.*

early educator families rely on some kind of public supports, like SNAP or Medicaid, to survive on these insufficient wages.³⁴

If care workers use these programs to supplement their low wages, they may be denied LPR status or prevented from coming to the U.S. in the first place. The proposed rule is thus likely to exacerbate the existing shortage of child care and direct care workers, leaving many families without access to the care they need.

III. Rescinding the 2022 public charge rule will harm lesbian, gay, bisexual, and transgender immigrants.

The proposed public charge regulation would have significant harmful effects on lesbian, gay, bisexual, and transgender (LGBT) immigrants and their families.³⁵ There are an estimated 1.3 million LGBT immigrants living in the U.S.³⁶ While there are no specific data collected or reported by the Departments of Homeland Security or State about LGBT immigrants, LGBT individuals always have, and will continue to, use family-based, employment-based, and other available categories to apply for lawful permanent residence in the U.S. For example, LGBT immigrants in same-sex marriages are recognized as spouses under U.S. immigration law after the U.S. Supreme Court's 2013 decision in *U.S. v. Windsor*. Since the 1990s, LGBT refugees who are fleeing persecution based on their sexual orientation or gender identity have been able to find legal protection in the U.S., but often face many hurdles in proving their claims of persecution.

Many LGBT immigrants and their families struggle economically and use some of the government benefits that would likely be counted against them under the proposed rule. As an intersectional subset of both the immigrant and LGBT populations, it is likely that tens of thousands of LGBT immigrants and their families, including those with U.S. citizen children, are using Medicaid, SNAP, and housing assistance to support themselves and their families. For example, an estimated 13 percent of LGBT adults use Medicaid as their health insurance program³⁷ ³⁸n estimated 2.1 million LGBT adults use SNAP, with higher utilization rates among racial and ethnic minority LGBT adults and those with children. Some subset of these LGBT adults are LGBT immigrants and their families, who will be impacted by the proposed public charge rule.

Moreover, because of continuing discrimination based on their sexual orientation and gender identity, LGBT immigrants, similar to all LGBT individuals, face additional challenges in accessing and maintaining education, employment, housing, and health care, and may be more likely to need assistance with basic needs such as health insurance and nutrition. The multiple and intersectional identities of LGBT immigrants mean greater risk for a lifetime of discrimination that restricts educational, employment, and other opportunities. These cumulative and compounding experiences of discrimination make transgender immigrants, especially

³⁴ *Id.*

³⁵ *LGBT Adult Immigrants in the United States*, WILLIAMS INST. (Feb. 2021), <https://williamsinstitute.law.ucla.edu/publications/lgbt-immigrants-in-the-us/>.

³⁶ See Natalie Kean & Kate Lang, *Supporting Older Americans' Basic Needs*, JUSTICE IN AGING (April 2018), www.justiceinaging.org/wp-content/uploads/2018/04/Supporting-Older-Americans%E2%80%99-Basic-Needs-Health-Care-Income-Housing-and-Food.pdf.

³⁷ *Press Release: LGBT Adults Are Twice As Likely as Non-LGBT Adults to Have Medicaid as Their Primary Source of Health Insurance*, WILLIAMS INST. (May 22, 2025), <https://williamsinstitute.law.ucla.edu/press/lgbt-adults-medicaid-press-release/>.

³⁸ Brad Sears, Andrew Flores & Jet Harbeck, *Food Insecurity and Reliance on SNAP Among LGBT Adults*, WILLIAMS INST. (June 2025), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/SNAP-Reliance-Jul-2025.pdf>.

transgender women of color, and lesbian immigrants, especially lesbians of color, particularly vulnerable. The proposed public charge regulation threatening denial of permanent residence for simply using benefits that help families with low incomes afford health care, nutrition, and housing would impose the untenable choice on LGBT immigrants and their families between disenrolling from these public benefits programs or jeopardizing their future immigration status.

IV. Rescinding the 2022 public charge rule will give USCIS officers boundless discretion that will fundamentally reshape the U.S. immigration system and preference the wealthy at the expense of people seeking to reunite with their families.

The U.S. immigration system has long prioritized family reunification. The landmark Immigration and Nationality Act (INA) of 1965 made this abundantly clear in its key provisions.³⁹ Adult children and siblings of citizens and immediate relatives of LPRs also receive preference, but are limited in both overall numbers and by per-country caps. Because people seeking green cards through a humanitarian pathway are not subject to a public charge determination, and because a valid Affidavit of Support is insufficient to overcome a finding of public charge, family-based immigration will be most affected by a more restrictive public charge determination.

If implemented, the rescission of the 2022 public charge rule could result in large numbers of noncitizens being denied LPR status. The Department does not directly estimate how many more people would be found inadmissible, but states that the “primary benefit of the proposed rule is the removal of overly-restrictive provisions” and that this will lead to “fewer inadmissible aliens entering the United States.”⁴⁰ A sense of the possible impact of the rule is offered by the analysis of the 2018 proposed rule, which found that more than half of all U.S. born citizens could have been found at risk of becoming a public charge if the rule were applied to them.⁴¹ Such radical changes would further skew our immigration system in favor of the wealthy, and against those seeking opportunity in this country and seeking to reunite with family members.

The NPRM suggests that its understanding of public charge is more consistent with Congressional intent than the 1999 guidance. However, Congress has made multiple changes to immigrant eligibility for benefits since the 1999 guidance was first introduced, including laws that make benefits more accessible, such as allowing immigrant children to receive SNAP and giving states the option to cover immigrant children and pregnant people under the Children’s Health Insurance Program (CHIP)—as well as laws that make benefits less accessible, such as the recently enacted H.R. 1 (P.L. 119-21).

If Congress did not agree that the long-standing interpretation of public charge was consistent with the INA or PRWORA, it has had multiple opportunities to direct DHS to act otherwise. The 1999 administrative guidance is in fact consistent with Congressional intent and case law;¹⁰ it has been relied upon by immigrant families for decades, and should continue to be used.

³⁹ Section 201(b) of the INA (as amended in 1965), 8 U.S.C. § 1151(b).

⁴⁰ 2025 NPRM, 90 Fed. Reg. 52207.

⁴¹ Danilo Trisi, *Trump Administration’s Overbroad Public Charge Definition Could Deny Those Without Substantial Means a Chance to Come to or Stay in the U.S.*, CTR. ON BUDGET & POL’Y PRIORITIES (May 30, 2019), <https://www.cbpp.org/sites/default/files/atoms/files/5-30-19pov.pdf>.

V. Conclusion

For the reasons set forth above and in coalition comments signed by NWLC, the Department should immediately withdraw this punitive proposed rule, which undermines our shared values; would make our nation hungrier, sicker, and poorer; and further entrenches bias against women and immigrants of color in an already flawed and problematic immigration system. Instead, DHS should dedicate its efforts to advancing policies consistent with statute and case law that strengthen—rather than undermine—the ability of immigrants to support themselves and their families.

Withdrawing the proposed rule would leave the current regulations (as codified in the 2022 rule) in effect. If the Department decides to develop an alternative rule, such rule must be open to full public notice and comment. Any new guidance or tools that are created to direct federal officials when making public charge decisions should also be made available for notice and comment because of their significant impact.⁴² And the Department should immediately clarify that any changes in the policy—whether through regulation or guidance⁴² will be only forward-looking, and that immigration officers will be directed not to consider any past use of, or application for, benefits. Such a clear statement was included in both the 2018 notice of proposed rulemaking⁴³ and the 2019 final^{43,44} and its omission from this proposal is deeply alarming.

Please note that our comments include numerous citations to supporting research and relevant documents, including direct links for the benefit of the Department in reviewing our comments. We direct the Department to each of the studies or documents cited and made available to the agency through active hyperlinks, and we request that the full text of each of the items cited, along with the full text of our comments, be considered part of the administrative record in this matter for purposes of the Administrative Procedure Act.

Thank you for the opportunity to comment on this NPRM.

Maribel Ramos

Maribel Ramos
Senior Director of Federal Government Relations
National Women's Law Center

⁴² Inadmissibility on Public Charge Grounds, 83 Fed. Reg. 51114 (Oct. 10, 2018).

⁴⁴ Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41292 (Aug. 14, 2019).