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## Comment

I submit these comments on behalf of the National Immigration Law Center.

It is essential that the Form 1-485 questions on public charge (questions 61 and 62) reflect USCIS policy and distinguish between receipt of cash and non-cash benefits. Many national advocacy, direct-service organizations and attorneys working with immigrants share our concern that these questions are confusing and misleading. It is hard to understand the reasoning for retaining the existing language despite its inconsistency with long-standing USCIS policy.

## CONCERN

The questions, as written, perpetuate a longstanding misunderstanding and concern among immigrants that receiving public benefits will undermine their ability to adjust their status or will otherwise put them at risk, because they will be considered a "public charge." This, in turn, has a chilling effect on immigrants' willingness to apply for critical benefits for themselves or their children.

USCIS policy is clear: noncash benefits are not subject to public charge consideration. USCIS defines "public charge" as an individual who 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."

The 1999 Field Guidance states that noncash benefits and special-purpose cash benefits that are not intended for income maintenance, but rather to promote other important societal interests, are not subject to public charge consideration. Programs not relevant to public charge determination include, but are not limited to, use of Medicaid, CHIP, SNAP, WIC, public housing, school lunch, job training, child care, shelters, energy assistance, disaster relief and health clinics.

The 1999 INS field guidance and Department of Justice proposed rule established procedures to be used by INS officers when making public charge determinations, and clarifying the benefits that immigrants can receive without public charge consequences. These directives were issued to alleviate "considerable public confusion about the relationship between the receipt of federal, state and local public benefits" and "public charge" determinations in immigration law.

## RECOMMENDATION

Once again, USCIS must act to alleviate the confusion. Because these questions on the adjustment forms are overly broad, asking about the use of public benefits generally, including those that are not relevant to the public charge inquiry, the resulting responses and data collected must be considered flawed, unnecessary for the agency's functioning, and lacking in practical utility.

Questions 61 and 62 of Form I-485 fail to distinguish between cash and noncash benefits. If questions pertaining to the use of public benefits are deemed necessary, they must be rewritten to ask the questions that are relevant to the public charge

determination:

Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash from state and local income assistance programs?

Have you received public assistance, including Medicaid, for long-term institutional care such as in a nursing home or mental health institution?