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August 25, 2016

U.S. Citizenship and Immigration Services
Department of Homeland Security
Washington, D.C.

OMB Control Number 1615-0023; USCIS-2009-0020

Re: Comments on U.S. Citizenship and Immigration Services, OMB Control Number 1615-0023, Agency Information Collection Activities: Application To Register Permanent Residence or Adjust Status, Form I-485, and Adjustment of Status Under Section 245(i), Supplement A to Form I-485; Revision of a Currently Approved Collection

Dear Sir or Madam:

Thank you for the opportunity to comment on the federal notice concerning an information collection request regarding the estimated public burden of Form I-485, the Application to Register Permanent Residence or Adjust Status. 81 Fed. Reg. No. 143 (484336, July 26, 2016) and previously published in the Federal Register on March 31, 2016, at 81 FR 18636.

The New York Immigration Coalition is an umbrella organization representing nearly 200 groups throughout New York State. We are a leading advocate for immigrant communities at the local, state, and national levels and serve one of the largest and most diverse newcomer populations in the United States. Our multi-ethnic, multi-racial, and multi-sector membership includes community organizations, nonprofit health and human services organizations, religious and academic institutions, labor unions, and social and economic justice organizations. No other organization in New York State brings together such a diverse network of organizations that work with immigrant communities.

We ask that you consider the following comments:

Questions 61 and 62 of Part 8 of the I-485 Form

Rather than clarifying the agency's rules on public charge, the proposed Form I-485 and its accompanying instructions will increase confusion and fear among immigrant families. Immigrants will be less likely to apply for critical benefits for which they or their family members—including citizen children—might be eligible, which will result in negative public health consequences for American communities.

The Need to Conform the I-485 Form to Existing USCIS Policy

USCIS should act to address “considerable public confusion about the relationship between the receipt of federal, state and local public benefits” and “public charge” determinations in immigration law.¹ Questions 61 and 62 of Part 8 on Form I-485 fail to distinguish between cash and noncash benefits.

Recommendations:

If questions pertaining to the use of public benefits are deemed necessary, they should be revised to track the rules governing the public charge grounds for admissibility, and inquire only about benefits that are relevant to public charge determinations. We offer the revised questions below as recommendations:

- *Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash welfare from state and local income assistance programs?*
- *Have you been in long-term institutional care—such as in a nursing home or mental health institution—paid for by Medicaid?*

The Instructions for Form I-485 should be revised to track the long-standing USCIS policy on public charge. We recommend the following revisions to the public charge instructions on page 7:

In Part 8., Item Numbers 61. and 62., you must include ~~all~~ only cash welfare received ~~or believe that you are likely to receive~~ from the U.S. Government or a U.S. state or local government, or if you have received long-term institutional care, such as in a nursing home or mental health institution, paid for by Medicaid. Receiving public assistance does not necessarily make you ineligible for adjustment of status. ~~but USCIS needs to know all types of U.S. Federal, state, and local public benefits you have received, or believe you are likely to receive, in order to determine relevancy to the public charge analysis.~~

Additionally, the Instructions for Form I-485 should include a section explaining these questions by:

- Specifying that noncash benefits such as SNAP, Medicaid, CHIP, WIC, housing benefits, child care services, energy assistance, emergency disaster relief, foster care and adoption assistance, education assistance, job training are not considered in the public charge determination.
- Specifying that receipt of monthly cash benefits for income maintenance purposes—SSI, TANF, cash from state and local income assistance programs and

¹ U.S. Department of State Foreign Affairs Manual Volume 9, Fam 40.41 Public Charge, INA 212(A)(4) <http://www.state.gov/documents/organization/86986.pdf> (last visited Oct. 10, 2012).

long-term institutional care—may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status to lawful permanent residence on public charge grounds.

In Conclusion

Advocates, attorneys and social service workers report that otherwise eligible non-citizen households express reluctance to apply for nutrition assistance or SNAP based on a belief that receipt of these and other noncash benefits for themselves and/or US citizen household members will prevent them from becoming a lawful permanent resident. This misunderstanding of USCIS policy will only be made worse if questions 61 and 62 of Part 8 of Form I-485 are not corrected. The questions promote confusion among immigration attorneys as well as USCIS officials. It is understandable why immigrants are wary of applying for noncash benefits.

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.

The New York Immigration Coalition is grateful for your consideration of these comments.