



**Comments of Community Legal Services
EO 12866 Meeting with Office of Management and Budget in regards to Department of
Homeland Security's NPRM, Inadmissibility on Public Charge Grounds, RIN 1615-AA22
July 25, 2019**

My name is Maripat Pileggi and I am an attorney at Community Legal Services (CLS) in Philadelphia. CLS is one of the largest and oldest providers of free legal services to low-income individuals in the country. We represent about 10,000 Philadelphians every year.

I have been an attorney in CLS's public benefits unit for the past 12 years and I specialize in immigrant eligibility for and access to public benefits. The public benefits unit represents individuals who are eligible for benefits like Medical Assistance, SNAP, and cash assistance, and we also advocate for improvement to benefits laws, policies, and systems. For over 50 years, CLS's public benefits unit has been studying the laws and policies that govern public benefits systems and developing relationships with the people and administrations that run Pennsylvania's benefits systems. We have expertise not only in the laws that govern Pennsylvania's benefits systems, but also in the ways that Pennsylvania's benefits systems work.

In Pennsylvania, our Department of Human Services administers the major benefits programs implicated in the Department of Homeland Security's proposed public charge regulation, including Medicaid, SNAP, and cash assistance. It also administers other public benefits programs like heating assistance, CHIP, and child care subsidies.

If the Department of Homeland Security's proposed regulation takes effect, it will impose significant and costly burdens not only on immigrant communities, but also on the Pennsylvania Department of Human Services and the large variety of non-profit organizations that serve immigrants. These burdens will have broad and costly impacts not only on immigrant public benefit recipients, but on everyone, including US citizens, who qualify for benefits health care, food, heating assistance, and other administered by the Pennsylvania Department of Human Services. In its proposed regulation, the Department of Homeland Security failed to take these costs into account. We therefore strongly urge you and the Department of Homeland Security to rescind the regulation.

If it is finalized, the Department of Homeland Security's public charge regulation should be amended to give states and communities much more than 60 days before the rule takes effect, so that there is enough time to adjust benefit systems and prepare communities.

The proposed public charge regulation includes a form, the I-944, that people will need to fill out when applying for admission to the US or applying to adjust status. The form asks for information



about receipt of and applications for public benefits. In order for Pennsylvanians to get information needed to complete this form, Pennsylvania's Department of Human Services will need to build entirely new systems.

Systems currently in place allow an individual to go online and print verification of current receipt of benefits by individual household members. But there is no process in place for an individual to print their own verification of past receipt of benefits or past applications they submitted. And there is no process in place for DHS staff to do this for people who need it. There is not even a process in place for DHS staff to easily figure out which household members received benefits in the past, which benefits they received, how much they received and when or who applied in the past and when.

The Pennsylvania Department of Human Services will need an entirely new system to make it possible for people to figure out who applied for or received benefits and when and how much. Making a system adjustment of this size takes time, money, and careful planning. Without adequate time, money, and planning, the results can be detrimental to everyone who interacts with local Department of Human Services offices.

For example, in January, during the federal government shutdown, PA Department of Human Services made a quick system change to issue February SNAP to households at the end of January because they did not know if the shutdown would result in there being no money to issue SNAP benefits in February. As a direct result of this single month of a quick systems change, there were massive delays in notices being mailed in January and February. Close to 200,000 people were mailed notices that were delayed by up to 2 weeks—affecting not just SNAP recipients, but Medical Assistance, Cash Assistance, and heating assistance recipients, and even people in nursing homes or receiving nursing services in their homes. Benefits were wrongfully denied, terminated or delayed for many. This is just one example of the ways in which benefits system redesigns can wreak havoc if not done carefully and with significant time and money.

Beyond the systems changes that would need to be developed to accommodate the I-944's requests, the crush of requests coming into PA DHS from the tens of thousands of people who will want to make changes in their cases, or who will have questions about the new public charge rules will very quickly overwhelm PA DHS staff and local benefits offices

There is a very delicate balance between the Department of Human Services's resources and demands for its services. When that balance is thrown off, even by small margins, it can very quickly create significant delays for everyone.

To provide a recent example, this past October a system glitch at the Pennsylvania Department of Human Services resulted in SNAP and cash assistance payment dates being misaligned with the business days in the month. Some people received benefits a day later than they expected. This prompted clients to call to ask about when they would receive their benefits. Calls to Philadelphia's Department of Human Services offices on these days in October increased from an average of about



3 or 4,000 per day to about 5 or 6,000 per day. On those days when there were extra calls, there were dramatic increases in wait times and dropped calls for everyone. Up to a third of all calls were dropped and people who got through sometimes waited more than 20 minutes for their calls to be answered. An extra 1 or 2,000 calls in a day resulted in up to 29 point increases in dropped calls and increases in wait times of 15 minutes or more. Again, these sorts of delays affect everyone—from US Citizen children who use DHS offices for help accessing health care to elderly US Citizens who use DHS offices to get nursing services in their homes and help to buy food and keep the heat on.

An increase of a couple thousand additional requests for information or help as a result of the Department of Homeland Security's new public charge rule is very likely. CLS submitted one of the 266,000 comments on DHS's proposed rule. In that comment, we detail our estimate that approximately 55,000 Pennsylvania SNAP and MA cases are at risk of being closed by immigrant families who are either scared or confused about the new public charge rules, or who are at direct risk of being found a public charge under the new rules.

People are already asking Pennsylvania Department of Human Services to make changes in their cases out of fear, even though the public charge regulation has not yet been finalized. Just in the last week I have worked with two clients who are asking the Department of Human Services to make changes in their cases. One client asked the Department of Human Services to cancel the SNAP benefits she is eligible to receive and leave SNAP open just for her US Citizen husband and children. The second client does not receive SNAP for herself, but her US Citizen husband and child do receive SNAP. She has a SNAP card with her name on it so she can buy food for her husband and child using their SNAP. She is asking the Department of Human Services to cancel the card with her name on it and give the family a card that has only her husband's name on it so that there will be no confusion about whether she is a SNAP recipient. Each client is asking for these changes because they fear that their receipt of benefits would create problems in their immigration cases.

State benefit agencies are not the only entities that will be heavily burdened by the Department of Homeland Security's public charge rule. If a final rule is published, any entity that works with immigrants will need to educate themselves on the new public charge policy in order to properly serve their clients. This is a highly complex area of law—immigration attorneys often do not understand it, in part because it involves public benefits law and public benefit attorneys often do not understand it, in part because it involves immigration law. One of the core services CLS provides is community education to client groups and training to other legal services and social services organizations who serve our clients. I have received more requests for training and community education on public charge in the last year than I have ever received before in my 12 years at CLS.

Just in the last two months, I have provided training on public charge to about 200 people from social service agencies, health clinics, homeless shelters, domestic violence service providers,



community based organizations, and legal services organizations. I am currently scheduling additional trainings for a local chapter of the American Immigration Lawyers Association and for staff at a major hospital in Philadelphia. Just over the last two months, I have also responded to dozens of individual requests for advice on public charge from a wide range of people—everyone from immigrant clients to immigration lawyers.

Chilling effects are real and bigger than the Department of Homeland Security estimated in the proposed regulation published in October, in part because various federal agencies are redrafting policies affecting immigrant access to benefits. As Miriam Enriquez (executive director of the Philadelphia Mayor’s Office of Immigrant Affairs) stated during our July 25, 2019 meeting, there are various definitions of “public charge” in use by and being changed by the federal Department of State, Department of Homeland Security, and Department of Justice. Moreover, on May 23, 2020 President Trump published a memo on sponsor liability. Under this memo, states may soon be under new instruction to redesign benefits application processes to adhere to more stringent policies on sponsor liability and sponsor deeming. These varying policies and directives, some of which have been announced since the Department of Homeland Security’s proposed regulation was published in October 2018, are compounding fear and confusion in immigrant communities, and they also compound the strain and burden on state benefits systems as well.

For all of these reasons, we very strongly urge you and DHS not to finalize and to rescind the Department of Homeland Security’s proposed regulation.