



Docket ID: USCIS-2010-0012

December 10, 2018

Samantha Deshommès, Chief
Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Deshommès,

The National Association of Counties (NACo) appreciates the opportunity to comment on the U.S. Department of Homeland Security's (DHS) Notice of Proposed Rulemaking (NPRM) titled "Inadmissibility on Public Charge Grounds" published on October 10, 2018. NACo is the only national organization representing America's 3,069 county governments; collectively, counties play a pivotal role in providing residents with critical health and human services. As administrators of numerous federal public assistance programs and as front-line providers of the public's health and safety, counties continue to be impacted directly by federal immigration policies and practices.

Counties administer and contribute funding to federal health and human services programs at the local level for all residents. As such, we recognize the critical role the federal government plays in providing communities with the resources needed to ensure their residents can lead healthy, safe and productive lives. We also commend DHS's intergovernmental and policy staff for ongoing, substantive engagement with local stakeholders on the public charge proposal. We hope that our comments on this proposal help to advance the shared goals of ensuring the integrity of federal benefits programs while also protecting our residents' health and well-being.

That said, while we understand the goal of the public charge proposal, counties are concerned the proposed rule may have unintended consequences for our residents and communities. After close consideration and numerous discussions – with local and state organizations, and with local elected officials and county health and human services directors – we are concerned that, if implemented, the public charge proposal would result in a decrease in use of federal public benefits thereby increasing usage of local services. As written, the change could also impose new administrative demands on counties already facing strict budget constraints.

Based on these concerns, America's counties have the following apprehensions with the public charge proposal as currently constructed:

- If individuals forgo enrolling in federal benefits programs, counties will likely see increased reliance on local agencies and services due to gaps created by restricted access to federal benefits.

- Individuals will be discouraged from seeking health benefits, which could lead to the increase risk of public disease outbreaks that are both harmful to all residents and costly to contain.
- Counties that fund and operate federal benefits programs will face additional administrative burdens if the proposed changes are implemented.

If individuals forego enrolling in federal benefits programs, counties will likely see increased reliance on local agencies and services due to gaps created by less access to federal benefits.

Collectively, counties invest over \$140 billion annually in health and human services, playing a major role in providing health care and public assistance to individuals regardless of immigration status. As providers of these social safety-net services, if the proposed changes to the public charge definition result in fewer individuals accessing federal benefits, such as health care and other support services, counties may face increased demands for assistance from these individuals and their families.

To understand the potential impact the public charge proposal may have, we can look back to the enactment of welfare reform in 1996, which considered similar provisions and caused the benefits-use rate to fall sharply among immigrant populations. For example, food stamp use by noncitizen families dropped by 43 percent between 1994 and 1998. Similar decreases in participation were found in Medicaid, which fell by 17 percent, and use of the Temporary Assistance for Needy Families (TANF) program by 44 percent over that same time period for immigrant populations. The decline was even more apparent among refugees, even though this population was still eligible for certain programs under the 1996 reforms. Rates for refugee use of food stamps use fell 60 percent by 1998, while use of Medicaid dropped 39 percent and of TANF dropped 78 percent.¹ Based on these findings, it is reasonable to anticipate that if enacted, the public charge proposal could discourage immigrants and their family members from accessing health, nutrition and social services.

When it comes to health services, the majority of states mandate counties to provide some level of health care for low-income, uninsured or underinsured residents – care that is often not reimbursed and falls directly to counties. In 2017, approximately 27 million individuals still lacked health insurance, which resulted in uncompensated care costs for counties. Counties already spend upwards of \$20 billion annually on uncompensated care, and we are concerned that this figure will significantly increase if the proposed rule includes Medicaid in the public charge designation.

By creating a strong disincentive for individuals to participate in Medicaid or seek care, the proposed rule could force individuals or families to forgo medical visits and medications until their health worsens. At this stage, illnesses become costlier to treat, leading to increased emergency department visits and inpatient hospitalizations. Ultimately, these uncompensated care costs would be paid for by counties.

Furthermore, if the contemplated changes to the public charge definition resulted in fewer individuals accessing federal benefits, such as the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps),

¹ U.S. Department of Agriculture, “Who is Leaving the Food Stamps Program? An Analysis of Caseload Changes from 1994 to 1997 (1999), available at <https://fns-prod.azureedge.net/sites/default/files/cdr.pdf> (March 1999).

county governments could face increased local burdens and costs assisting these individuals and their families, effectively resulting in a cost-shift from the federal government to local governments.

Finally, NACo would like to urge DHS to exclude the Children's Health Insurance Program (CHIP) under the public charge proposal, which provides health insurance to families and children that do not qualify for Medicaid. Together, CHIP and Medicaid insure over 30 million children and cover a range of health services. If DHS's proposal expands the public charge definition to include CHIP, it could lead to many eligible children forgoing health care benefits, further exacerbating the strain on county budgets due to an increase in uncompensated care. Furthermore, including CHIP in the final rule could reduce the number of insured children, a troubling outcome at a time when the rate of uninsured children is already rising. In fact, a recent report from the Georgetown University Center for Children and Families found that the number of uninsured children in the U.S. rose last year for the first time in nearly a decade.

Nearly all of these changes could have the unintended consequences of shifting costs and the burden of care to counties. This comes at a time when counties are already facing increased demands as well as a growing number of restraints on revenue generation from states. In fact, nearly every state places some type of cap on property taxes, the main source of revenue for counties in most states. Additional financial strain from this proposal could hinder our ability to provide crucial services to our residents and communities.

Individuals could be discouraged from seeking health benefits, thereby increasing the risk of communicable disease outbreaks that are harmful to all residents and costly to contain.

Another potential side effect of reduced health coverage in communities is the increase in communicable disease outbreaks. As referenced above, disincentivizing medical care could lead to individuals waiting longer to seek care, thereby exposing more individuals, family members and communities to the illness. In addition to being extremely costly for counties to control, public disease outbreaks have a devastating impact on our residents and communities.

As part of our role in operating over 1,900 local health departments and providing services to over 300 million individuals, counties bear the chief responsibility for preventing and mitigating significant disease outbreaks. From preventative measures like administering flu shots to educating the public on health issues and other diseases, counties are involved in protecting the health of all individuals regardless of immigration status. Furthermore, counties support policies that address health inequities and the distribution of diseases and illnesses across population groups.

Counties are concerned that the language contained in the current public charge proposal may not only have unintended consequences when it comes to achieving our health goals, but limit the public health efforts we have undertaken to ensure the health of our residents and communities.

Counties that fund and operate federal benefits programs will face additional administrative burdens if the proposed changes are implemented.

While we understand the intention of the new administrative provisions included in the public proposal, counties are concerned that the new requirements may have unintended consequences. Counties fund and administer

numerous federal benefits programs in nearly a dozen states across the country. In these states, counties contribute significant local funds to administrative and supplemental costs of running the programs.

Counties are concerned that the addition of the new self-sufficiency form (Form I-944, Declaration of Self-Sufficiency) may create an additional financial burden on county agencies in time spent researching individuals' federal benefits usage. Under the proposal, legal immigrants who wish to make changes to their immigration status would be required to fill out Form I-944 to indicate whether he or she ever applied for or received federal benefits, including the exact amount of the benefit and dates of benefits received. Individuals looking to change their immigration status, regardless of whether they have ever requested or received federal benefits, may rely on county agencies to research and obtain this information, which would be both time consuming and costly.

Additionally, counties may also have to increase their administrative capacity in the form of personnel or data systems to ensure they are able to respond to these requests, while receiving no new federal resources to offset increased costs. Specifically, with the requirement of the new form, the proposal may require counties to invest significant new funds to update or develop new IT systems to track individuals' past benefit usage. While this proposal will impact all counties, we are particularly concerned about the impacts on rural counties, who face limited flexibility, staff and resources to comply with new, unfunded mandates or reporting requirements.

Furthermore, while individuals and their families may initially forgo enrollment in health programs, they may reenroll if their health situations worsen. This could create an additional pressure on county agencies which could see an increase in time spent screening and tracking beneficiaries as they move on and off these programs.

Conclusion

In sum, counties are concerned that, if implemented, the public charge proposal would create unintended consequences for local governments as we work to serve our communities. That said, we remain committed to engaging with our federal partners towards a common goal of improving federal programs while also protecting the health and well-being of our residents.

We look forward to further substantive discussions with DHS staff regarding the public charge proposal's suitability for advancing this shared goal.

Thank you for this opportunity to present the local perspective on DHS's public charge proposal.

Sincerely,



Matt Chase
Executive Director
National Association of Counties