



STATE OF WASHINGTON
— OFFICE OF GOVERNOR BOB FERGUSON —

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December 19, 2025

Regulatory Coordination Division
Office of Policy and Strategy
Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: Notice of Proposed Rulemaking, ***Public Charge Ground of Inadmissibility***, 90 Fed. Reg. 52168 (November 19, 2025); USCIS No. 2836-25; DHS Docket No. USCIS-2025-0304; RIN 1615-AD06

Dear Secretary Noem,

The undersigned Washington State officials urge the Department of Homeland Security (“DHS”) to withdraw its Proposed Rule, *Public Charge Ground of Inadmissibility*, 90 Fed. Reg. 52168 (November 19, 2025) and leave in effect the current regulations, as codified in the 2022 rule.

Rather than advancing this Notice of Public Rulemaking (“NPRM”), DHS should focus on policies that strengthen—rather than undermine—the ability of non-citizens and their families to maintain economic stability, health, and safety.

In addition, DHS should immediately clarify that any changes in public charge policy, whether through regulation or guidance, will be only forward-looking, and that adjudicators will be directed not to consider any benefits received during a time when the public charge policy stated that the use of such benefits would not result in adverse immigration consequences. DHS included such a statement in both the 2018 notice of proposed rulemaking¹ and the 2019 final rule.² Failing to include such language in this NPRM would unfairly punish immigrant families who reasonably relied on these official policies.

¹ Department of Homeland Security. *Inadmissibility on Public Charge Grounds*. October 10, 2018, 83 Federal Register 51114 (2018 NPRM). <https://www.federalregister.gov/d/2018-21106/p-1274>.

² Department of Homeland Security. *Inadmissibility on Public Charge Grounds*. August 14, 2019, 84 Federal Register 41292 (2019 Final Rule). <https://www.federalregister.gov/d/2019-17142/p-627>.

In summary, the NPRM should be rescinded because:

- The NPRM removes established regulatory guardrails and expands the interpretation of public charge beyond the longstanding approach that Washington State, local governments, families, and service providers have relied on for years.
- The chilling effect of the proposed rule will cause significant and ongoing harm to Washington immigrant families, including US citizen family members, as well as immigrants who are not implicated by the public charge rule.
- The harms created by the rule and its chilling effect will not be limited to immigrant families and communities but will also harm the health and wellbeing of the broader community. This undermines Washington’s ability to achieve core policy goals and creates massive uncertainty, fear, and confusion.
- The proposed rule will create administrative burdens and fiscal and economic harm to Washington State and local governments.

I. Changes to the Public Charge Regulatory Framework

The NPRM would rescind the 2022 public charge final rule³ (with the exception of limited language regarding public charge bonds) but fails to provide replacement language, leaving a regulatory void. Instead, the NPRM states that new public charge guidance and tools will be promulgated at a future date after the final rule is issued.

A. Repeal of 2022 Rule Creates a Void Where There are Now Clear Guidelines

Without providing any details on future guidance, the NPRM rejects longstanding interpretations of the meaning of “public charge,” including that an individual may be found likely to become a public charge only if they are likely to become “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. This longstanding interpretation was based on decades of case law, written into the 1999 field guidance,⁴ ratified by Congress, and included in the 2022 final rule.

³ Department of Homeland Security. *Public Charge Ground of Inadmissibility*. September 9, 2022, 87 Federal Register 55472 (2022 Final Rule). <https://www.govinfo.gov/content/pkg/FR-2022-09-09/pdf/2022-18867.pdf>

⁴ Department of Justice, *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, May 26, 1999, 64 Federal Register 28689 (Field Guidance). <https://www.federalregister.gov/documents/1999/05/26/99-13202/field-guidance-on-deportability-and-inadmissibility-on-public-charge-grounds>.

Instead, the NPRM's treatment of public charge would allow for denials for virtually any reason, including a broad range of health conditions and supplementary benefits received by many workers.

1. The NPRM Fails to Provide Guidance on Benefits to Be Considered

The NPRM would remove the clarity that the current regulations provide concerning which public benefits can be considered in a public charge determination, suggesting that DHS may consider receipt of any type of means-tested benefits received or applied for by noncitizens. These benefits may have been received at any time and for any length of time, even on behalf of U.S. citizen or lawful permanent resident family members.

The NPRM simply says "DHS proposes to eliminate these definitions that limit the **benefits** that are considered as part of the public charge inadmissibility determination"⁵ (emphasis added). DHS also states that "the receipt of **any type of public benefits** by a qualified alien is relevant and indeed critical to determining whether an alien is actually self-sufficient"⁶ (emphasis added).

The NPRM also fails to define "means-tested public benefits," and uses a variety of other terms to describe the programs that will be considered, including "public benefit programs" and "public resources." In doing so, the NPRM exacerbates confusion and fear. Without guidance about which benefits will or will not be considered, the lack of clarity and certainty will predictably discourage immigrant families from accessing programs for which they are eligible.

There are innumerable public programs and services that could be contemplated to fall under the definition of a "public benefit" or "public resource," including many not limited to low-income people. While DHS may or may not intend that *all* of these programs should count in a public charge assessment, the NPRM fails to provide any guidance on which programs would **not** be considered. By contrast, the 2019 and 2022 final rules included language about which programs were excluded, such as "this definition does not include benefits related exclusively to emergency response, immunization, education, or social services"⁷ (2019 rule) and "DHS will not consider receipt of... public benefits not referenced in § 212.21(b) and (c))" (2022 rule).⁸

Without clear guidance, Washington state, local governments, and organizations that help families enroll in benefits are unable to provide definitive reassurance to immigrants and their family members that these programs are safe to use. Failing to articulate *which*

⁵ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-327>.

⁶ 2025 NPRM <https://www.federalregister.gov/d/2025-20278/p-280>.

⁷ 2019 Final Rule: <https://www.federalregister.gov/d/2019-17142/p-522>.

⁸ 8 CFR 212.22(a)(3).

programs and benefits will count has both enormous chilling effects and leaves an excessive amount to the discretion of individual immigration officers, who are not experts in public benefits and cannot reasonably be expected to understand the details of hundreds, if not thousands of public programs.

Even if it were clear that only “means-tested public benefit” programs would be considered, the NPRM fails to provide any information about which programs DHS will consider. For example, there are existing statutory definitions, such as “Federal means-tested public benefits” under the Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”), but the NPRM fails to make any such references.

Under the NPRM, it is deeply concerning that receipt of public services, such as important programs that Washington State has provided to promote public health, safety, and well-being, may potentially be considered to negatively impact a public charge decision. These programs may include emergency medical care, school lunches, victim compensation, child reunification services, tax credits, or compensatory programs such as worker’s compensation and unemployment insurance. A particular salient issue due to a recent weather and atmospheric river emergency in Washington State is access to disaster recovery assistance for catastrophic damage in the wake of widespread flooding.⁹

Furthermore, it is important that DHS provide a clear rationale for the NPRM’s departure from the long-accepted “primarily dependent” standard to the consideration of *any* means-tested benefits. The reason that cash assistance for subsistence and institutionalization for long-term care have long been the only benefits considered in the public charge determination is that many other benefits programs, including those which are means-tested, are supplemental programs.¹⁰

For example, in Washington State, families with incomes over double the federal poverty level are eligible for Apple Health (Medicaid), and children in families with incomes up to three times the federal poverty level are eligible for CHIP,¹¹ recognizing the importance of providing health coverage to children in families with adults who work. Furthermore, some benefits that families receive are pro-rated based on earned income,¹² meaning that families may be receiving negligible levels of assistance and should not be considered in a public charge determination.

2. The Lack of Clear Guidance Harms People Not Implicated by the Public Charge Statute

⁹ <https://apnews.com/article/washington-flooding-rescues-evacuations-water-receding-22ddbfb21257f6cf027f8c5641be3ab>

¹⁰ 1999 NPRM.

¹¹ See, <https://www.hca.wa.gov/assets/free-or-low-cost/income-standards.pdf>

¹² See, e.g., <https://www.dshs.wa.gov/esa/community-services-offices/basic-food>

The NPRM also removes the regulatory definition of “receipt (of public benefits),”¹³ which previously clarified that applying for or receiving benefits on behalf of family members would not be considered “receipt.” As a result, the NPRM potentially allows adjudicators to consider benefits used by family members who are not seeking admission to the U.S. or to adjust their status. This will have a significant chilling effect, reducing benefits usage by U.S citizens, children, other family members, and pregnant individuals. It will also reduce benefits usage by other non-citizens who are not subject to the public charge rule under the Immigration and National Act, including lawful permanent residents (LPR), refugees and asylees, and other humanitarian categories such as victims of crime and human trafficking,¹⁴ for whom access to benefits is critical to overcome and escape abuse.¹⁵

Potentially subjecting humanitarian immigrants to consideration under the public charge rule will harm tens of thousands of Washingtonians. In federal fiscal year 2024, Washington’s Office of Refugee and Immigrant Assistance provided a broad array of services to nearly 29,000 people, many of whom would likely be exempt from application of the current public charge rule, but who could be harmed under the proposed broader application. Washington’s Department of Social and Health Services (DSHS) anticipates that many humanitarian immigrants— many of whom have already been devastated by recent immigration policy changes like H.R. 1 — would face additional barriers to programs intended to improve their health, safety, and stability.

DSHS estimates that 30,000 immigrants in Washington state will be expelled from the federally funded SNAP and Medicaid programs due to changes in eligibility under H.R. 1. A broadened interpretation of the public charge rule could further create even more barriers to individuals with humanitarian categories of immigration status from accessing benefits and programs. H.R. 1 shifts hundreds of millions of dollars in additional annual costs from federal food and health programs onto Washington’s state-funded assistance programs. The NPRM’s broad application raises barriers to access for those who have already faced persecution, violence, abuse, exploitation, and other harms.

The NPRM provides no justification for this change, and any final rule should make clear that utilization of benefits by family members will not be considered in a public charge determination.

II. The NPRM Will Harm Washingtonians and Threatens Washington’s Fiscal Health

¹³ 8 CFR Part 212.21(d)

¹⁴ 8 USC Secs. 1159(c) & 1182(a)(4)(E);

¹⁵ S. Goodman, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims’ Economic Security* (2018), available at https://vawnet.org/sites/default/files/assets/files/2018-05/TheDifferenceBetweenSurvivingandNotSurviving_Jan2018.pdf

Washington State is home to a significant number of immigrants and immigrant households. In 2021, the total immigrant population in Washington state was approximately 1,149,000 individuals.¹⁶ This number includes a 29% increase in the immigrant population during 2020-21, and a 37% increase in the number of naturalized citizens.¹⁷ Many in Washington's immigrant households are U.S. citizen children under age 18. Nationwide, approximately one in four children had an immigrant parent as of 2023,¹⁸ and the majority of these children were U.S. citizens.¹⁹

A. The Chilling Effect of the Proposed Rule Will Cause Significant and Ongoing Harm to Washingtonians

By removing current effective and lawful regulatory guardrails, the proposed rule creates uncertainty and fear. In the absence of regulatory language, DHS claims it will administer the policy consistent with statutory requirements and case law. Even if DHS were to follow this interpretation faithfully, however, the removal of the regulatory language undoubtedly will have a significant chilling effect, meaning that people who are eligible for public benefit programs will be less likely to enroll themselves or their family members in those programs. Without clear guidance that immigrants can use in making decisions, we will see a return to the confusion and harm that immigrants and broader communities were experiencing before publication of the 1999 field guidance.

This chilling effect of the proposed rule is both predictable and consequential. The result will be increased poverty, children going hungry or unsheltered, and delayed or foregone medical care, with lasting negative effects on health and well-being. The rule would also harm the country's health care and food systems, schools, communities, and the broader economy.

The proposed rule will greatly endanger the health, wellbeing, and safety of millions of individuals living in the United States, including many living in Washington state. This includes not only immigrants, but also U.S. citizens, particularly U.S.-born children of immigrants.

Washington State's DSHS will experience significant negative effects from the NPRM, as it threatens the ability of the agency's Economic Services Administration (ESA) to provide Washingtonians with support and services. If the proposed rule is adopted, DSHS anticipates seeing low-income individuals and families disenroll or forgo enrollment in the public benefits offered by DSHS and other agencies, for which they may in fact be eligible.

¹⁶ Yen, Wei. *Washington state's immigrant population: 2024*. Washington State Office of Financial Management, May 2023. <https://ofm.wa.gov/wp-content/uploads/sites/default/files/public/dataresearch/researchbriefs/brief110.pdf>

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ KFF. *Key Facts on Health Coverage of Immigrants*. KFF, January 1, 2025. <https://www.kff.org/racial-equity-and-health-policy/key-facts-on-health-coverage-of-immigrants/>

This is supported by several studies, including those from the Urban Institute²⁰ and KFF.²¹ These studies found that a significant number of individuals and families elected to forgo applying for benefits for fear of immigration enforcement or a negative impact on their application for lawful permanent residency. The chilling effect reached even immigrant families in which all members of the family were citizens (6.7 percent in 2019) or in which all noncitizen members were permanent residents (16.7 percent in 2019).²²

Many families will withdraw from the programs that help feed them, house them, and keep them healthy or safe. This means more children will be at risk of hunger, losing stable housing, and getting sick. In fact, the proposed rule itself acknowledges that immigrants and U.S. citizens may experience worse health outcomes; higher prevalence of communicable diseases; increased rates of uncompensated healthcare, poverty, hunger, housing instability; and lower productivity and education attainment.

1. The Current Environment Is Exacerbating the Chilling Effect

The chilling effect of the new proposed rule is likely to be even greater today than in the past because of fears in immigrant communities resulting from the extensive current threats they are facing. These different fears reinforce each other. Research has found that experience with immigration enforcement increases noncitizens' concerns about public charge. Factors such as (1) having stayed inside to avoid police or immigration officials, (2) having been asked to show proof of citizenship by law enforcement, and (3) knowing someone who has been deported, were all found to increase concerns about accessing public benefits related to a potential public charge determination.²³ Indeed, three in ten respondents to a KFF survey reported that they or a family member have already limited their participation in activities outside the home since January because of concerns over drawing attention to someone's immigration status.²⁴

20 Dulce Gonzalez, et al. *Mixed-Status Families with Children Continued Avoiding Safety Net Programs in 2023*. Urban Institute, August 2024. <https://www.urban.org/sites/default/files/2024-08/Mixed-Status-Families-and-Immigrant-Families-with-Children-Continued-Avoiding-Safety-Net-Programs-in-2023.pdf>

21 Drishti Pillai et al. *KFF/New York Times 2025 Survey of Immigrants: Health and Health Care Experiences During the Second Trump Administration*. KFF, 2025. <https://www.kff.org/immigrant-health/kff-new-york-times-2025-survey-of-immigrants-health-and-health-care-experiences-during-the-second-trump-administration/>.

22 Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, and Stephen Zuckerman, *Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, Urban Institute, 2020. <https://www.urban.org/research/publication/amid-confusion-over-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-2019>.)

23 Lei Chen, Maria-Elena De Trinidad Young, Michael A. Rodriguez, and Kathryn Kietzman. "Immigrants' Enforcement Experiences and Concern about Accessing Public Benefits or Services." *Journal of Immigrant and Minority Health* 25, no. 5 (2023): 1077

24 Drishti Pillai et al. *KFF/New York Times 2025 Survey of Immigrants: Health and Health Care Experiences During the Second Trump Administration*. KFF, 2025. <https://www.kff.org/immigrant-health/kff-new-york-times-2025-survey-of-immigrants-health-and-health-care-experiences-during-the-second-trump-administration/>.

The chilling effect is accentuated by DHS's efforts to access data about individuals from the Internal Revenue Service (IRS),²⁵ the Social Security Administration, and the state agencies that operate SNAP and Medicaid.²⁶ The NPRM exacerbates these concerns. Rather than relying on a discrete set of data sources, DHS proposes to allow employees to introduce into the determination process "any other information the officer deems relevant."²⁷ The NPRM repeatedly states the agency's intent to integrate potentially vast amounts of data with federal immigration records to make these decisions.²⁸ Citing Executive Order 14243, the NPRM states that "DHS anticipates working toward the integration of immigration records with records from Federal benefit-granting agencies."²⁹

Other policy changes—such as the attacks on birthright citizenship, arrests at green card interviews, the early termination of Temporary Protected Status (TPS) for most designated groups, pauses on all asylum application processing, and the plan to review all refugee statuses granted under the previous Administration—combine to undermine immigrants' trust in government and their faith that promises will be kept.

2. Much of the Harmful Impact Will Fall on Children and Pregnant People

Given the restrictions on immigrants' eligibility for public benefits, much of the chilling effect will fall on U.S. citizen children in immigrant families.³⁰ For example, the KFF analysis cited above finds that slightly under half of the Medicaid or CHIP enrollees who live in a household with at least one noncitizen—5.9 million out of 13.4 million—are U.S. citizen children.³¹

In addition, Washington State has a strong interest in healthy pregnancy outcomes. Expanding Medicaid eligibility during pregnancy to previously uncovered immigrants has been found to significantly increase use of prenatal care and support more regular prenatal visits. In turn, this resulted in improved birth outcomes, as measured by increased average gestational length (e.g. fewer premature births) and birthweight among infants born to immigrant mothers. In contrast, pregnant immigrant women who avoid

²⁵ *Center for Taxpayer Rights v. Internal Revenue Service*, 1:25-cv-00457 (D.D.C.)

<https://www.courtlistener.com/docket/69646607/center-for-taxpayer-rights-v-internal-revenue-service/>.

²⁶ See, Social Security Administration, Privacy Act of 1974, System of Records, 90 FR 50879, November 11, 2025. <https://www.federalregister.gov/documents/2025/11/12/2025-19849/privacy-act-of-1974-system-of-records>; *State of California v. United States Department of Agriculture*, 3:25-cv-06310, (N.D.

Cal.). <https://www.courtlistener.com/docket/70945300/state-of-california-v-united-states-department-of-agriculture/>; *State of California v. U.S. Department of Health and Human Services* 3:25-cv-05536 (N.D. Cal.). <https://clearinghouse.net/case/46754/>

²⁷ 90 Fed. Reg. 52169 n.2.

²⁸ *E.g., id.* at 52183, 52200.

²⁹ *Id.* at 52183.

³⁰ Tanya Broder and Gabrielle Lessard *Overview of Immigrant Eligibility for Federal Programs*, National Immigration Law Center, 2024, <https://www.nilc.org/wp-content/uploads/2024/05/overview-immeligfedprograms-2024-05-08.pdf>

³¹ Samantha Artiga, et.al, "Chilling Effects of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment, KFF, 2025, <https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicare-and-chip-enrollment>.

Medicaid or WIC out of fear of immigration consequences may lose access to critical pregnancy-related care. This places them at higher risk of poor birth outcomes, including elevated rates of infant and maternal mortality. Eligible children, including United States citizens, may also miss out on Medicaid coverage, which provides well documented near-term and long-term health benefits.

The NPRM acknowledges these harms, while also understating their scope. It fails to provide justification for the need to replace the current lawful and effective regulations and further fails to articulate any benefits that would outweigh the widespread and devastating harms caused by repealing them.

3. Cost Transference, Increased Cost, and Long-Term Economic Impacts

Not only does the NPRM's chilling effect harm immigrant families, it imposes significant costs on Washington State, local governments, and service providers. For example, Washington State's Health Care Authority (HCA) expects an overall decline in Apple Health (Medicaid) enrollment, as immigrant families will be deterred from seeking public assistance. Washington's Department of Commerce (Commerce) anticipates disenrollment from housing and homelessness programs, resulting in housing instability, and from energy assistance programs, resulting in increased energy insecurity, especially in winter months.

Health: Without health insurance, HCA predicts an increase in more Washingtonians deferring health care, resulting in reduced use of primary care providers, preventive care, and chronic health condition management. With reduced use of these more cost-efficient medical services, an increase in emergency department use is likely to result in deferred care and increased uncompensated care at hospitals, contributing to higher medical care costs for all people. This all results in increased use of emergency departments, longer wait-times, and strain on quality of care in emergency departments.³²

Program Funding: With fewer clients served, federal funding for DSHS or HCA to execute their programs may be reduced, which will further hamper these state agencies' ability to offer much needed support to eligible Washingtonians. Furthermore, DSHS's institutional hospital settings and home health services sectors may be impacted due to workforce instability, as immigrants make up a large portion of the healthcare sector.³³

Burden on Service Providers: Moreover, DSHS and Commerce expect that the proposed rule will have a cascading effect on organizations and service providers in Washington, including nonprofits, shelters, and food banks. There may be longer emergency stays in

³²HHS, Agency for Healthcare Research and Quality, *Healthcare Cost and Utilization Project*, <https://www.ahrq.gov/data/hcup/index.html>

³³ Hankyung Jun & David Grabowski, *Immigrant Certified Nursing Assistants Grew as US-Born Staff Numbers Fell, 2010-21*. Health Affairs, January 2024, <https://www.healthaffairs.org/doi/10.1377/hlthaff.2023.00881>

domestic violence shelters and increased demand for food, transportation, childcare, and assistance from domestic violence programs if immigrant households are unable to or afraid to access public assistance programs directly through DSHS. The need for assistance will not dissipate.

Instead, community-based organizations, many of which are already at capacity, will see an increase in demand from individuals seeking services that might otherwise have been provided by Washington State.

Food System: A further trickle-down effect will be the reduction in retail business for grocers, reducing their need for products and staffing. This in turn impacts food suppliers, distributors, and producers. This could exacerbate unemployment and poverty rates in Washington state and destabilize the lives of many, directly harming Washington's strong interests in food security among its residents. Access to the Supplemental Nutrition Assistance Program (SNAP) has reduced food insecurity in children, and longitudinal research has shown that access to food stamps during the first five years of life produced statistically significant improvements in lifetime educational attainment, income, likelihood of home ownership, quality of neighborhood and life expectancy.

Housing Insecurity: Commerce administers state and federal funds, primarily through county governments, to provide a statewide response to reduce housing instability, and access to safe and affordable housing and stabilizes families at risk of homelessness. Housing instability is associated with worse nutritional, developmental, and overall health outcomes in children, as well as negative health consequences, such as heart disease, substance use disorders, and premature mortality. When families have access to housing assistance, they have more resources to cover the cost of healthy food, health care, and other necessities. The NPRM, however, will harm the state's interests, including by deterring eligible families from achieving housing stability.

III. There Are Strong Reliance Interests on the Longstanding Policies Clarified in the 2022 Regulations.

DHS acknowledges that "the regulated public may be relying on aspects of the regulatory scheme in the 2022 Final Rule, which, in many respects substantively aligns with the 1999 Interim Field Guidance."³⁴ DHS seeks comments on what aspects of the 2022 Final Rule might have engendered reliance interests.

Washingtonians have strong reliance interests in many provisions of the prior rule, including: (1) the statement that no benefits would be considered other than cash

³⁴ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-412>.

assistance for income maintenance and institutionalization for long-term care; (2) the statement that applications for or use of benefits by family members would not be considered in a public charge determination; and (3) the provisions excluding consideration of benefits while an individual is in an immigration status that is exempt or otherwise not subject to a public charge assessment.

For example, DHS suggests that eliminating the 2022 rule will open the door for consideration of “receipt of any type of public benefits,” allowing the agency to “move away from a bright line primary dependence standard.” Under the NPRM, immigration officers would be given broad discretion to consider programs previously excluded from public charge determinations, including Medicaid, CHIP, and many other noncash assistance programs. The Washington State Department of Health is concerned in particular about the lack of definition and potential broad impact of this change on other federal programs that have historically been excluded from public charge determinations, including the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Vaccine for Children (VFC) Program, and other public health programs providing important care for uninsured and underinsured people.³⁵

IV. DHS Has Failed to Mitigate the Chilling Effect of the NPRM.

The NPRM itself acknowledges the increased likelihood of worse health outcomes; higher prevalence of communicable diseases; increased rates of uncompensated healthcare, poverty, and housing instability; and lower productivity and education attainment,³⁶ including even for those not subject to the 2019 Final Rule.”³⁷ The NPRM further acknowledges the likelihood of increased costs such as lower revenues for healthcare providers participating in Medicaid, reduced income for companies manufacturing medical supplies or pharmaceuticals, decreased sales for grocery retailers participating in SNAP, economic impacts on agricultural producers supplying SNAP-eligible foods, and financial strain on landlords participating in federally funded housing programs.”³⁸

At the same time, DHS maintains that these harms are not the “intent” of the regulation and therefore suggests that it has no obligation to minimize these harms, as it did in the 2019 final rule. Indeed, DHS fully acknowledges the likely chilling effect on groups not subject to a public charge determination, but states that “DHS will not alter this rule to account for such unwarranted choices.”³⁹ DHS’s failure to mitigate the NPRM’s chilling

³⁵ Samantha Artiga, et.al, “Chilling Effects of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment, KFF, 2025, <https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicare-and-chip-enrollment>.

³⁶ 2025 NPRM <https://www.federalregister.gov/d/2025-20278/p-523>.

³⁷ 2022 Final Rule: <https://www.federalregister.gov/d/2022-18867/p-1414>.

³⁸ 2025 NPRM: <https://www.federalregister.gov/d/2025-20278/p-529>.

³⁹ 2019 Final Rule: <https://www.federalregister.gov/d/2019-17142/p-535>.

effect and its many widespread harms will have significant negative effects on Washington.

VI. Conclusion

For the foregoing reasons, the NPRM is flawed as both a policy and a legal matter. DHS should immediately withdraw its current proposal and instead prioritize policies consistent with statute and case law that strengthen—rather than undermine—the ability of immigrants to support themselves and their families.

Sincerely,



BOB FERGUSON
Governor




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Health Care Authority



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