

December 07, 2018

Submitted via www.regulations.gov

Samantha Deshommes
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

Dear Ms. Deshommes:

On behalf of the Boston Bar Association's Delivery of Legal Services (DLS) Section, we respectfully submit these comments in opposition to the proposed regulations related to Public Charge determinations, DHS Docket No. USCIS-2010-0012.¹ The proposed rule would dramatically change the way in which the Department of Homeland Security (DHS) determines whether an immigrant is likely to become a "public charge," requiring a wide-ranging investigation of an immigrant's history and economic prospects. In addition to greatly expanding the matters to be considered in making a public charge finding, the new rule also disturbingly expands that group of immigrants subject to a public charge determination to include those seeking an extension of or change of non-immigrant status, such as work or student visas.

The DLS Section Steering Committee focuses on improving access to legal services, with special attention to addressing the legal needs of middle- and low-income communities. It is led by a steering committee made up of 47 attorneys from legal services organizations, private firms, law schools, and government offices. The Section believes that the proposed rule will have a disproportionately negative impact on low-income immigrant families, harm the health and well-being of those families and the general public, and hinder the ability of legal service providers to assist these individuals.

Disturbingly, the new rule will lead many individuals to drop or forgo benefits that they desperately need to maintain the health, housing security, and general well-being of their families. Reports already reveal that the proposal is causing people to drop or forego benefits and this effect will become even more widespread if the proposed rule is promulgated as drafted. Especially concerning is the chilling effect this will have, even on immigrant families that are by definition not subject to the rule. Overall, the Mass Budget and Policy Center's report² estimates that roughly 25 million individuals across the country will be impacted by this chilling effect, and that here in Boston, 500,000 individuals, 160,000 of those children, could forgo receiving much-needed benefits, even if they are eligible.

Those who are exempt from application of the public charge rule (such as refugees, asylees, many other "humanitarian" statuses) are likely to be confused, frightened, and choose not to seek benefits to which they are entitled as a result. Especially concerning is that these groups are some

¹ Please note that the following comment does not reflect a position of the Boston Bar Association and is instead being in submitted on behalf of the interested section.

² http://www.massbudget.org/report_window.php?loc=A-Chilly-Reception-Proposed-Immigration-Rule.html

of the most vulnerable populations (unaccompanied minors, survivors of domestic violence and other trauma) and often those most in need of public benefits to achieve safety, independence, and self-sufficiency.

Overall, when individuals choose to disenroll or not enroll in these key benefits, immigrants and their families will suffer from housing insecurity, malnutrition, and poorer health outcomes across the board as they are no longer able to access early and preventative care. And when millions choose not to pursue benefits, resulting in a significantly greater number of uninsured patients and increased emergency visits, there will be significant impacts to public health. As more people face serious illnesses and are unable to seek treatment for communicable diseases, the health and wellbeing of all those in the country will be put at increased risk. Systems will also struggle to handle these changes, creating significant costs and burdens for communities. The Boston Planning and Development Agency estimates that the health-related costs for the city of Boston alone could be between \$14 million and \$57 million per year.³

The new rule will also disproportionately impact families as it will apply most frequently to those applying for status through family-based petitions. This will cause scores of families to be separated (in Boston 19,400 would possibly face deportation, 1,882 of those are minor children, 5,896 are married, and approximately 6,000 are caring for minor children). It additionally disregards the reality and importance of intergenerational caretaking/family networks of support for immigrant families, failing to recognize how all members of such households contribute to the stability of the family. These family separations will have especially detrimental effects to children, many of whom are U.S. citizens, that may have to grow up without their parents and potentially be placed in foster care. As a whole, the proposed rule will exacerbate child poverty and homelessness and trap low income immigrant families in intergenerational poverty, harming the well-being and economy of communities across the country.

The proposed changes and the climate of uncertainty and fear created by the proposed rules will also impact the ability of legal service providers to serve current and potential future clients. First, as individuals choose to forego benefits that maintain their self-sufficiency and well-being, demand for legal services, related to immigration and also matters of healthcare, family law, public benefits, and housing, will rise. Already, legal aid organizations are unable to meet the demand for services and the majority of eligible individuals must be turned away on account of a lack of resources. In addition, individuals, based on the misinformation, confusion, or fear generated by the new rule may forego seeking much-needed legal assistance, so legal aid attorneys will have a harder time even understanding who it is that needs assistance. Finally, when rules are constantly changed or poorly defined it is difficult to advise clients. The many versions of this leaked rule and poorly defined provisions, like lack of clarity surrounding the scope of assessing “fee waivers” for immigration benefits as a negative factor, makes it difficult to understand the impact of the rule and accurately advise clients.

For the above reasons, we oppose the proposed regulations. We thank you for your careful consideration of these comments. If you’d like additional information on the above concerns, please contact BBA Legislative and Public Policy Manager Alexa Daniel at adaniel@bostonbar.org.

Sincerely,

The Boston Bar Association Delivery of Legal Services Steering Committee

³ <http://www.bostonplans.org/getattachment/e856c564-bf0f-47d4-9a44-75b430903f82>