



Charles N. Kahn III
President and CEO

April 25, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Citizenship and Immigration Services
Department of Homeland Security
Washington, DC

Submitted via Regulations.gov

RE: *Public Charge Ground of Inadmissibility; DHS Docket No. USCIS-2021-0013*

Dear Secretary Mayorkas,

The FAH is the national representative of more than 1,000 leading tax-paying hospitals and health systems throughout the United States. FAH members provide patients and communities with access to high-quality, affordable care in both urban and rural areas across 46 states, plus Washington, DC and Puerto Rico. Our members include teaching, acute, inpatient rehabilitation, behavioral health, and long-term care hospitals and provide a wide range of inpatient, ambulatory, post-acute, emergency, children's, and cancer services. The FAH appreciates the opportunity to comment on the *Department of Homeland Security's Public Charge Grounds of Inadmissibility Proposed Rule* (Proposed Rule).

The Medicaid and Children's Health Insurance Program (CHIP) programs help vulnerable children and adults access necessary medical care and they are associated with better health outcomes for beneficiaries. The Department of Homeland Security's 2019 Final Rule on public charge had chilling effects and discouraged noncitizens—and their related citizen family members—from utilizing noncash medical benefits which they could be eligible to receive. In the FAH's 2018 comment letter, we highlighted a November 2018 Manatt study that projected reduced Medicaid spending of \$17 billion a year, loss of access to care for eligible families, and increased charity and uncompensated care for hospitals if the final rule went into effect. Finalization of the rule, even with the legal action stopping enforcement, led to lower insured rates and likely led to poorer health outcomes and exacerbated health disparities – especially given the dramatic effects of the COVID-19 public health emergency.

We applaud the Department's recognition of the harm this 2019 final rule created. The Department's new Proposed Rule would adopt a standard like the one used prior to 2019 in which an individual is likely to become a public charge if the individual is likely to become

primarily dependent on the government for subsistence, as demonstrated by either receipt of public cash assistance for income maintenance or long-term institutionalization at government expense.

The Department proposes that public cash assistance for income maintenance would be narrowly defined to include Supplemental Security Income; cash assistance for income under Temporary Assistance for Needy Families; or state, tribal, territorial, or local cash benefit programs for income maintenance. Long-term institutionalization would include uninterrupted and extended stays in an institution such as a nursing home or a mental health institution. Reversing its earlier position, enrollment in federal or state benefit programs, such as Medicaid, would no longer be considered in a public charge inadmissibility determination (except in the case of long-term institutionalization). In making the change, the Department recognized that:

“The inclusion of non-cash benefits in the 2019 Final Rule had a chilling effect on enrollment in Federal and State public benefits, including Medicaid, resulting in fear and confusion in the immigrant community. Concerns over actual and perceived adverse legal consequences tied to seeking public benefits have affected whether or not immigrants seek to enroll in public programs, particularly Medicaid and CHIP, and have resulted in a decrease in health insurance rates of eligible immigrants, particularly Latinos.” (87 Fed. Reg. 10611)

We appreciate the Department’s acknowledgment of the 2019 Final Rule’s chilling effect. As we explained in the past, policies that discourage eligible residents from seeking medical benefits can hurt health outcomes and distort health spending. We support the Department’s proposal to exclude enrollment in Medicaid programs from the criteria used to make determinations on public charge inadmissibility.

Should you have questions regarding these comments, please feel free to contact me or Don May, Senior Vice President, Policy at (202) 624-1500.

Sincerely,

A handwritten signature in black ink, appearing to read "Don May", written in a cursive style.