United States Conference of Catholic Bishops

Catholic Charities USA

CHA Catholic Health Association of the United States

Submitted Electronically via Regulations.gov

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Ms. Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Ave., NW
Washington, D.C. 20529

RE: Notice of Proposed Rulemaking "Public Charge Ground of Inadmissibility," CIS No. 2836-25; DHS Docket No. USCIS-2025-0304; RIN 1615-AD06

Dear Ms. Deshommes:

The United States Conference of Catholic Bishops (USCCB), Catholic Charities USA (CCUSA), and the Catholic Health Association of the United States (CHA) submit this joint comment regarding U.S. Citizenship and Immigration Services (USCIS)/U.S. Department of Homeland Security's (DHS or "the Department") Notice of Proposed Rulemaking (NPRM or "the Proposed Rule") entitled "Public Charge Ground of Inadmissibility," published on November 19, 2025.[1]

The USCCB is a nonprofit corporation whose members are the active Catholic bishops of the United States, representing nearly 200 autonomous dioceses in all 50 states and the U.S. Virgin Islands. For over sixty years, the USCCB's Department of Migration and Refugee Services has advanced the Church's concern for the life and dignity of immigrants, refugees, victims of trafficking, and others on the move through direct-service programs, advocacy, and outreach. This work is guided by the USCCB's Committee on Migration and supported by the USCCB's Subcommittee on Pastoral Care of Migrants, Refugees and Travelers, which promotes pastoral outreach to newcomers and itinerant persons throughout the country. The USCCB's Secretariat of Justice and Peace, guided by several committees, further assists the bishops in advancing the social mission of the Church, including through longstanding antipoverty efforts.

CCUSA is the voluntary, national membership organization for Catholic Charities agencies throughout the United States. Each agency is a separate legal entity under the auspices of its bishop. CCUSA's 168 member agencies operate in over 4,000 service sites across 50 states, Washington D.C., and five U.S. territories. Rooted in the Gospel (Matthew 25), Catholic Charities has, for over a century, provided assistance to all people, regardless of background or religious affiliation, in their time of need. The agencies help provide food, utilities assistance, trauma-informed case management, housing assistance, and other support to vulnerable populations, including children,

[1] Public Charge Ground of Inadmissibility, 90 Fed. Reg. 52168 (Nov. 19, 2025).

the elderly, and people living with a disability. Last year, Catholic Charities served 16 million people nationwide in collaboration with government agencies at all levels.

CHA is the national leadership organization of the Catholic health ministry, representing more than 2,200 Catholic health care systems, hospitals, long-term care facilities, clinics, hospices and related organizations across the continuum of care. CHA represents the largest not-for-profit providers of health care services in the nation. With more nearly 4.5 million admissions to Catholic hospitals each year, including almost 1 million Medicaid admissions, one in seven patients in the United States is cared for in a Catholic hospital each year. All 50 states and the District of Columbia are served by Catholic health care organizations and approximately 700,000 individuals are employed in Catholic hospitals. Catholic health care organizations serve immigrants, including refugees and victims of human trafficking, in their clinics, emergency rooms and other facilities. Catholic health care also employs many people who have left their country of origin seeking a better life for themselves and their communities. The Catholic health ministry has long supported access to health care for all immigrants.

The Catholic Church teaches that our obligations to one another flow from the inalienable, God-given dignity of every human person, each of whom is created in the image and likeness of God. A good society, then, upholds this dignity of each person by promoting the "common good," a concept of Catholic social though with ancient origins that requires society to support conditions that allow for the flourishing of its people. The "demands of the common good" include justice and peace, as well as "the provision of essential services to all, some of which are at the same time human rights: food, housing, work, education and access to culture, transportation, basic health care, the freedom of communication and expression, and the protection of religious freedom."[2]

We believe the Proposed Rule conflicts with the dignity of the person and the common good that society is called to uphold. Our organizations serve vulnerable people nationwide, and we are deeply concerned that the Proposed Rule would penalize people for using programs Congress created to reduce hunger and homelessness and improve public health. The harm extends beyond noncitizens: it will affect U.S. citizens, state-run social programs, and services provided by health care and charitable organizations, including those serving our constituencies in every state and U.S. territory. It will also disrupt safety-net programs that reflect the nation's commitment to family unity, human dignity, and self-sufficiency. Moreover, the complexity of factors combined with broad discretion granted to immigration and consular officials will make public charge determinations arbitrary. In 2018, we raised similar concerns about the prior public charge rule ("2019 Rule"),[3] and those concerns have only intensified, given the scope of this NPRM and related policies. Finally, rescinding the Public Charge Ground of Inadmissibility Final Rule of 2022 ("2022 Final Rule") will create chaos and confusion for individuals and organizations that have relied on its long-standing definitions, which align with decades of interpretation.

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[2] *See Compendium of the Social Doctrine of the Church*, nos. 165–166 (2004).

[3] *See generally* Catholic Charities USA & U.S. Conference of Catholic Bishops, Comments on "Inadmissibility on Public Charge Grounds" Notice of Proposed Rulemaking, RIN 1615-AA22 (Dec. 3, 2018) https://bit.ly/38MpYEn; *see also* Inadmissibility on Public Charge Grounds, 83 Fed. Reg. 51114 (Oct. 10, 2018); Catholic Health Association of the United States, Comments on "Inadmissibility on Public Charge Grounds" Notice of Proposed Rulemaking, RIN 1615-AA22 (Dec. 10, 2018), https://bit.ly/4s0gBVF.

For these reasons, our organizations oppose the Proposed Rule and respectfully urge that the rescission of the 2022 Final Rule and implementation of this NPRM be abandoned by the Department. In addition to these comments, our organizations endorse those submitted by the Catholic Legal Immigration Network, Inc. (CLINIC), in response to this NPRM.

I. The NPRM is Not the Best Reading of the Statute, which Makes it Arbitrary and Capricious Under the *Loper Bright* Standard of Review, and it Should be Rescinded.

Following the 2019 Rule and its subsequent replacement by the current 2022 regulations, this new NPRM marks the third major policy shift in the public charge rule in six years. "An agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance."[4] An agency rule would be arbitrary and capricious if the agency "has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."[5] The requirement that "an agency provide reasoned explanation for its action would ordinarily demand that it display awareness that it is changing position [and agencies] must show that there are good reasons for the new policy."[6] While the previous standard of review was whether the new policy is permissible under the statute and that the agency believes the new policy is better,[7] the current standard of review for agency action is whether the Proposed Rule is the best reading of the statute.[8] For the reasons set out below, the Proposed Rule is not the best reading of the statute, and the rule should be rescinded or at the very least be reworked prior to its reissuance to comport with this standard.

a. The Proposed Rule Impermissibly Attempts to Extract Public Charge Principles from PRWORA, but the Department Does Not Attempt to Establish How PRWORA is *In Pari Materia* with the Public Charge Grounds of Inadmissibility and Deportability.

The Proposed Rule attempts to create out of whole cloth congressional intent for its actions in this NPRM from the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA). The rule states that the public charge is aligned with the intent behind PRWORA, namely, that any income-based benefit that noncitizens receive could count toward a public charge determination.[9]

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[4] *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983).
[5] *Id*. at 43.
[6] *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).
[7] *Id.*
[8] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024) ("In an agency case as in any other, though, even if some judges might (or might not) consider the statute ambiguous, there is a best reading all the same—the reading the court would have reached if no agency were involved. It therefore makes no sense to speak of a 'permissible' interpretation that is not the one the court, after applying all relevant interpretive tools, concludes is best. In the business of statutory interpretation, if it is not the best, it is not permissible.").
[9] *See, e.g.,* 90 Fed. Reg. at 52168–01 ("DHS believes that the statute, PRWORA, and the governing caselaw would provide sufficient guidance to officers to consider all relevant case-specific circumstances in their discretion.").

The Department is proposing to return to an "inherently discretionary nature of the determination, [which the Department believes was intended by Congress,] without constraining officers from considering information and evidence that is relevant to an alien's likelihood at any time of becoming a public charge."[10]

This position raises several issues.

First, it ignores that "public charge" is a term of art that originated in the early 1900s.[11] This means that the Department's interpretation is, at best, a permissible interpretation under *Loper Bright*.[12] The Congresses of yore never even attempted to define what degree of reliance on government aid brands a person a "public charge."[13] The Department is now attempting to say that the Congress of 1996 *intended*, without ever appearing in the congressional record or having a cross reference in the text itself, to define public charge through PRWORA. The Department does not provide a citation for why PRWORA is a good interpretative measuring stick by which to define a public charge other than its congressional findings.[14] It cannot do so because PRWORA cannot stand *in pari materia* with a public charge definition.[15] They are acts with almost 100 years in between them and varying histories; PRWORA, the subsequent act, does not cite to either the public charge ground of inadmissibility or deportability within its text;[16] neither statutes contain similar provisions;[17] nor do they regulate the same subject matter.[18] PRWORA provides, at best, poor interpretative guidance to a public charge determination, and, at worst, will lead to erroneous denials and litigation. Relying on PRWORA to define public charge defeats the whole point of having written statutes: every statute's meaning is fixed at the time of enactment.[19] The previous Trump Administration's DHS attempted to use PRWORA to interpret public charge in the 2019

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[10] *Id.* at 52168–01, 52188.

[11] *New York v. United States Dep't of Homeland Sec.*, 969 F.3d 42, 71 (2d Cir. 2020) ("Congress has unwaveringly described the fundamental characteristic at issue as being a 'public charge' since 1882. We easily conclude that Congress 'adopt[ed] the language used in [its] earlier act[s]' in its most recent reenactment of the public charge ground in 1996."); *see also Cook Cnty., Illinois v. Wolf*, 962 F.3d 208, 223 (7th Cir. 2020) ("Congress tinkered with the language in 1891, 1903, and 1907.").

[12] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024).

[13] *Cook Cnty., Illinois v. Wolf*, 962 F.3d 208, 223 (7th Cir. 2020).

[14] 8 U.S.C. 1601; *see* 90 Fed. Reg. at 52168, 52169–70 ("The purpose of this Proposed Rulemaking is to remove the current public charge inadmissibility provisions promulgated by the Public Charge Ground of Inadmissibility final rule (2022 Final Rule), as these provisions straitjacket DHS officers' ability to make public charge inadmissibility determinations that are consistent with Congress's express national policy on welfare and immigration enacted in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).").

[15] *New York v. United States Dep't of Homeland Sec.*, 969 F.3d 42, 77 (2d Cir. 2020) ("PRWORA implemented Congress's goal of self-sufficiency by restricting non-citizen eligibility for benefits, including the establishment of the five-year waiting period for LPRs. PRWORA did not eliminate non-citizen eligibility for benefits nor does it suggest that such drastic action is necessary. Still less does it indicate any congressional intention that non-citizens who receive the benefits for which Congress did not render them ineligible risk being considered public charges.").

[16] *See* 8 U.S.C. 1601–42.

[17] *Smith v. City of Jackson*, 544 U.S. 228, 233 (2005) ("[W]hen Congress uses the same language in two statutes having similar purposes, particularly when one is enacted shortly after the other, it is appropriate to presume that Congress intended that text to have the same meaning in both statutes.").

[18] PRWORA regulates *receipt* of public benefits. Meanwhile, 8 U.S.C. 1182(a)(4) governs the *admissibility* of noncitizens, and 8 U.S.C. 1227(a)(5) governs the *deportability* of noncitizens.

[19] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024) (*quoting Wisconsin Central Ltd. v. United States*, 585 U.S. 274, 284 (2018) (emphasis deleted in original)).

Rule, and it was rejected by all courts that took up the issue.[20] Therefore, this cannot be the best reading of the statute.

The inadequacy of relying on PRWORA for interpretative guidance is further highlighted by not having all public benefits be subject to PRWORA. PRWORA was never supposed to have this all-encompassing role in immigration benefit determinations. A better reading of PRWORA would understand that PRWORA's major purpose was to establish a set of uniform and restrictive eligibility criteria for a broad array of federal benefits.[21] Congress enacted PRWORA as part of an overhaul of the federal welfare system.[22] PRWORA establishes default restrictions on alien eligibility for state and local benefits.[23] PRWORA provides, in the statutory text, certain exemptions and certain noncitizens and "qualified aliens" are eligible to receive certain public benefits. The application of PRWORA's restrictions is a result of certain questions such as whether the program delivers benefits that constitute "federal public benefits," whether PRWORA's "qualified alien" restriction overrides eligibility rules from other statutes, or whether the program has a narrower qualification criteria than PRWORA.[24] Nothing in PRWORA's framework could reasonably assist with a public charge determination.

The Administration, in separate efforts, attempted to change the definition of PRWORA recently in order to expand its scope and the programs it covers to reduce eligibility.[25] However, this updated interpretation has been preliminarily stayed as to the Plaintiff States because it suffers from similar deficiencies as this Proposed Rule.[26] Failing to do so in its PRWORA interpretation, the Administration now turns to the public charge determination to limit benefit eligibility. However, since Congress authorized noncitizens and qualified aliens to receive certain benefits,[27] the Department should not be able to act contrary to congressional intent, especially as a means to limit immigration or access to programs for which people are legally eligible.[28]

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[20] *New York v. United States Dep't of Homeland Sec.*, 969 F.3d 42, 81 (2d Cir. 2020) (rejecting DHS justifications that its proposed "public charge" definition is a superior interpretation of the statute to the 1999 Interim Field Guidance because it "furthers congressional intent behind both the public charge inadmissibility statute and PRWORA in ensuring that aliens . . . be self-sufficient and not reliant on public resources."); *Cook Cnty., Illinois v. Wolf*, 962 F.3d 208 (7th Cir. 2020); *City & Cnty. of San Francisco v. United States Citizenship & Immigration Services*, 981 F.3d 742 (9th Cir. 2020); *contra CASA de Maryland, Inc. v. Trump,* 971 F.3d 220 (4th Cir. 2020) *vacated and rehearing en banc provided by* 981 F.3d 311 (Dec. 3, 2020).

[21] BEN HARRINGTON, CONG. RSCH. SERV.,, R46510, PRWORA'S RESTRICTIONS ON NONCITIZEN ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS: LEGAL ISSUES 2 (2020), https://www.congress.gov/crs-product/R46510.

[22] *New York v. U.S. Dep't of Justice*, 1:25-CV-00345-MSM-PAS, 2025 WL 2618023, at *2 (D.R.I. Sept. 10, 2025).

[23] HARRINGTON, *supra* note 21 at 2.

[24] *Id.*

[25] *See generally New York v. U.S. Dep't of Justice*, 1:25-CV-00345-MSM-PAS, 2025 WL 2618023, at *3 (D.R.I. Sept. 10, 2025).

[26] *Id.* at *25 (D.R.I. Sept. 10, 2025) (preliminarily finding that notices constituted legislative rules subject to notice-and-comment rulemaking under APA, that notices were arbitrary and capricious under APA for failure to consider reliance interests, and that States were likely to prevail on argument that notices were contrary to PRWORA's definition of "federal public benefit."); *see also Washington State Ass'n of Head Start & Early Childhood Assistance & Educ. Program v. Kennedy*, 2:25-CV-00781-RSM (W.D. Wash. Sept. 11, 2025).

[27] *See e.g.,* 8 U.S.C. 1611(b), 1621(b), 1641(b), (c).

[28] *New York v. United States Dep't of Homeland Sec.,* 969 F.3d 42, 77–78 (2d Cir. 2020) ("Rather than supporting DHS's expanded interpretation, both the policy statements, taken as a whole, and the actual implementation of those policy goals in the substantive provisions of PRWORA, are in considerable tension with the Proposed Rule's new interpretation of public charge, which penalizes non-citizens for the possibility that they will access the very benefits PRWORA preserved for them.") (cleaned up).

b. The Department's Interpretation of PRWORA and Public Charge is Too Vague, and the Department Fails to Provide Sufficient Guidance to Ensure Consistency in its Application.

"If men must turn square corners when they deal with the government, it cannot be too much to expect the government to turn square corners when it deals with them."[29] The Administrative Procedure Act (APA) requires that the government provide a reasoned explanation for its actions.[30] Here, the Department is not doing so, as the Department is withholding a complete rollout of public charge guidance for future policymaking.

With this NPRM, the Department is doing away with a bright line, consistent rule while replacing it with a purely discretionary measure. This measure may have further guardrails in the future, but leaving the rule as is will make application of the rule inconsistent at best.[31] However, unfettered discretion without guardrails leaves open the rules to invalidation, since vague enforcement standards create due process concerns.[32] The Department should issue fuller guidance to avoid these scenarios.

The Proposed Rule also contradicts itself and creates vagueness in its interpretation/application. The NPRM consistently states that receipt of past benefits will be just one factor in the public charge analysis,[33] and, at the same time, receipt of past benefits will be a key gauge to determine whether someone is a public charge.[34] The Proposed Rule appears to incorporate certain requirements from the previous 2019 Rule without disclosing those requirements. For instance, the NPRM implies that some factors in the public charge determination are to be "more heavily weighed," such as previous receipt of benefits, but the rule fails to disclose those factors. This is a failure to warn the regulated public what the Proposed Rule will measure.[35]

The NPRM's proposal that further guidance will be issued in the future could further mire this rule in arbitrariness. The Department is leaving open the possibility of (and hinting at) issuing guidance

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[29] *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021).
[30] *Judulang v. Holder*, 565 U.S. 42, 45, 132 S.Ct. 476, 181 L.Ed.2d 449 (2011) ("When an administrative agency sets policy, it must provide a reasoned explanation for its action. This is not a high bar, but it is an unwavering one.").
[31] *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972) ("It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined[.] First, because we assume that man is free to steer between lawful and unlawful conduct, []laws [must] give the person of ordinary intelligence a reasonable opportunity to know what is prohibited[.] Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.").
[32] *Make the Rd. New York v. Noem*, 25-CV-190 (JMC), 2025 WL 2494908, *19 (D.D.C. Aug. 29, 2025) (Government's interests in enforcing immigration law were outweighed by value of additional safeguards and significant liberty interest of noncitizen. The government's weighty interest in efficient administration of the immigration laws at the border must always be pursued in a manner consistent with the Due Process Clause of the Constitution.).
[33] 90 Fed. Reg. at 52168–71, 52188 ("an officer would not conclude that an alien is inadmissible as likely at any time to become a public charge simply because that alien received a means-tested public benefit.").
[34] *Id.* at 52190 ("DHS believes that any prior receipt of means-tested public benefits is a *key gauge* to determining the likelihood of future dependence on the government for subsistence.") (emphasis added).
[35] *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

through its policy manuals or similar methods.[36] However, any future change to the public charge rule will likely necessitate a new NPRM. Any future guidance will likely be considered legislative rather than interpretative rulemaking, necessitating notice and comment.[37] Issuing substantive guidance without notice-and-comment rulemaking has been invalidated in the past.[38] Furthermore, *post hoc* rationalizations cannot form the basis to uphold agency action.[39] A prudent course of action would be for the Department to discern the rule further in-house and reissue the Proposed Rule with more clarity regarding what the Department is intending.

c. The Proposed Rule Would be Impermissibly Retroactive without a Forward-Looking Effective Date.

The Proposed Rule, as written, is likely impermissibly retroactive because the Department has not set a future timeframe from which point this rulemaking would be applicable. The rule would be *ex post facto* if it took into account benefits allowed to be received by noncitizens during the previous interpretations of the public charge ground of inadmissibility.[40] The Department should include a forward-looking date from which point benefits will be considered when finalizing the rule, since nothing in the statute gives the Department the ability to retroactively use previous receipt of benefits by an individual (or his or her beneficiaries) when doing a rule change to bar his or her admission to the United States.[41] This is something that the Department would need to address prior to finalizing the rule.

d. The Proposed Rule Would Likely Allow Benefits Use by U.S.-citizen Children to be Impermissibility Attached to a Noncitizen, which is Contrary to the Statutory Language.

The potential for inclusion of the determination of benefits received by U.S.-citizen children cannot be found in the text of the statute. However, the Proposed Rule seems to suggest, in rescinding the current regulatory framework and in the absence of a replacement, that this could

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[36] 90 Fed. Reg. at 52192 (While discussing why the Department is removing certain provisions from the C.F.R., it states that "[t]he Policy Manual can be easily updated to reflect any changes that Congress may make in the future to the exemptions and waivers for the public charge ground of inadmissibility. The possibility that the regulatory text would fall out of date is why DHS included two catchall provisions in the existing regulation.").

[37] ADMINISTRATIVE CONFERENCE OF THE UNITED STATES, IIB-034, DISTINGUISHING BETWEEN LEGISLATIVE RULES AND NON-LEGISLATIVE RULES (Feb. 2024) https://www.acus.gov/sites/default/files/documents/34%20Distinguishing%20Between%20Legislative%20Rules%20and%20Non-Legislative%20Rules.pdf.

[38] *Kiakombua v. Wolf*, 498 F. Supp. 3d 1 (D.D.C. 2020) (Invalidating lesson plans that did not go through notice and comment because it was legislative rather than interpretive rule making.).

[39] *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1909 (2020) (*quoting American Textile Mfrs. Institute, Inc. v. Donovan*, 452 U.S. 490, 539 (1981) ("[T]he post hoc rationalizations of the agency . . . cannot serve as a sufficient predicate for agency action."); *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 419 (1971), *abrogated by Califano v. Sanders*, 430 U.S. 99 (1977) (rejecting "litigation affidavits" from agency officials as "merely 'post hoc' rationalizations")).

[40] *Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988) (As a general matter, statutory grants of rulemaking authority will not be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by express terms.).

[41] *Cf.* 8 U.S.C. 1182(a)(4) ("Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible."); 1227(a)(5) ("Any alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.").

be taken into consideration based on the totality of the circumstances.[42] This change will deprive American children of noncitizens and other American citizens in mixed-status household benefits out of fear of family members being "locked" out of immigration relief.[43] The NPRM itself considers that this will cost billions of dollars to these American citizens and the localities where they reside.[44] This is a direct result of the tension created by using PRWORA as a guiding principle for a public charge determination. Congress could not have envisioned such a result.[45] DHS's stated reliance on a presidential proclamation of policy cannot dictate a different result.[46] If receipt of benefits by dependents or U.S.-citizen family members will not be considered, the Department should make this clear in the final rule to avoid the 17.3% disenrollment rate that the Department estimates.[47] This could take the form of the 2022 rulemaking, which leaves this protection for children in mixed-status families in the preamble of the finalized rule, rather than in the regulatory text itself.[48]

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[42] *See* 90 Fed. Reg. at 52180, 52183 (citing *Matter of Martinez-Lopez*, 10 I&N Dec. 409, 421-22 (BIA 1962; Att'y Gen. 1964) (addressing factors that could be considered, such the number of dependents someone has)).

[43] *Id.* at 52208 ("DHS estimates that the total annual transfer payments from the Federal Government to public benefits recipients who are members of households that include aliens could potentially be reduced by approximately $5.29 billion. DHS also estimates that the total annual transfer payments from the State government to public benefits recipients could be reduced by approximately $3.68 billion."); *Id.* at 52218 ("reduced access to public benefit programs by eligible individuals, including aliens and U.S. citizens in mixed-status households, may lead to downstream effects on public health, community stability, and resilience, to include: Worse health outcomes, such as increased prevalence of obesity and malnutrition (especially among pregnant or breastfeeding women, infants, and children), reduced prescription adherence, and increased use of emergency rooms for primary care due to delayed treatment. Higher prevalence of communicable diseases, including among U.S. citizens who are not vaccinated. Increased rates of uncompensated care, where treatments or services are not paid for by insurers or patients. Increased poverty, housing instability, reduced productivity, and lower educational attainment.").

[44] *Id.* at 52171 (estimating that there would be billions of dollars in benefit reductions due to disenrollment or foregone enrollment, with a ten-year outlook being between $100.12 and $121.6 billion. This does not take into account other direct and indirect costs that DHS could not calculate or envision). The extraordinary breadth of the authority DHS is exerting with this rule, coupled with the economic significance of this assertion, also opens this rule to Major Question Doctrine Concerns under *West Virginia v. EPA*, 142 S. Ct. 2587 (2022). Courts will hesitate before concluding that Congress meant to confer such political and economic shattering authority to DHS, further highlighting that this cannot be the best reading of the statute.

[45] *New York v. United States Dep't of Homeland Sec.*, 969 F.3d 42, 82 (2d Cir. 2020) ("Had Congress thought that any benefits use was incompatible with self-sufficiency, it could have said so, either by making non-citizens ineligible for all such benefits or by making those who did receive them inadmissible. But it did not. We are thus left with an agency justification that is unmoored from the nuanced views of Congress.").

[46] 90 Fed. Reg. at 52180 ("As reflected in Executive Order 14218, Ending Taxpayer Subsidization of Open Borders, the Trump administration is taking steps to "uphold the rule of law, defend against the waste of hard-earned taxpayer resources, and protect benefits for American citizens in need, including individuals with disabilities and veterans." *See id.* at 10581, 10581 (Feb. 25, 2025)") (citations in original). Reliance on Executive Orders to enact policy unmoored from statutory text and agency discretion has given rise to claims during this administration that agency action is preordained. *See Jenner & Block LLP v. U.S. Dep't of Justice,* 784 F. Supp. 3d 76, 109 (D.D.C. 2025) (agency action preordained by EO, violating due process.); *California v. Trump*, 786 F. Supp. 3d 359, 380 (D. Mass. 2025) (EO preordains outcome of procedures rendering procedures meaningless.); *Nat'l TPS All. v. Noem*, 25-CV-05687-TLT, 2025 WL 2233985, at *12 (N.D. Cal. July 31, 2025) (Terminations of TPS were likely preordained.); *Nat'l TPS All. v. Noem*, 25-CV-05687-TLT, 2025 WL 2684340, at *4 (N.D. Cal. Aug. 8, 2025) (same); *Nat'l TPS All. v. Noem*, 25-CV-01766-EMC, 2025 WL 2578045 (N.D. Cal. Sept. 5, 2025) (same); *CASA, Inc. v. Noem*, CV 25-1484-TDC, 2025 WL 3514378, at *15 (D. Md. Dec. 8, 2025) (granting extra record discovery to determine whether TPS terminations were preordained.).

[47] 90 Fed. Reg. 52209 ("Given the range of disenrollment estimates observed, DHS assumes an average disenrollment rate of 17.3 percent. This average is derived from studies conducted between 2022 and 2025.").

[48] *See* 87 Fed. Reg. 55472, 55474 (Sept. 9, 2022).

Failure to do so might make DHS's proposal contrary to the text of the statute because both 8 U.S.C. 1182 and 8 U.S.C. 1227 are concerned with the noncitizen himself or herself being a public charge, not the person's U.S.-citizen family members. Through this Proposed Rule, DHS is pushing an "absolutist sense of self-sufficiency that no person in a modern society could satisfy."[49]

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For the reasons stated above, the existing regulatory framework is a better, and quite likely the best, reading of the statute in comparison to this Proposed Rule. The NPRM incorporates the same thematic elements as the 2019 Rule, and, as a result, suffers from the same defects that the 2019 Rule possessed. The 2019 Rule was enjoined even though it was published under the more deferential *Chevron*[50] standard.[51] *Loper Bright* mandates that the Department issue policies that reflect the best reading of the statute.[52] What is proposed in the NPRM is not the best reading, and the Department should therefore withdraw its current proposal and keep the 2022 public charge interpretation.

II. Implementation of the Proposed Rule Would Cause Significant Public Health and Policy Concerns.

The Proposed Rule, as written, would present a myriad of health and public policy concerns, a number of which DHS itself has acknowledged in the NPRM.[53] The rule threatens to: (a) worsen public health outcomes; (b) negatively impact family unity and stability; and (c) have damaging ripple effects on the nation's economy. Instead of pursuing the implementation of this NPRM and the rescission of the 2022 rulemaking, DHS should continue to adhere to the existing interpretation of the public ground rule of inadmissibility.

a. The Proposed Rule Would Lead to A Chilling Effect on Program Enrollment and Worsen Public Health Outcomes.

By DHS's own admission, the reduced access to public benefit programs by eligible individuals, including for noncitizens and U.S. citizens in mixed-status households, may lead to significantly harmful downstream effects on public health, community stability, and resilience. This would include:

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[49] *Cook Cnty., Illinois v. Wolf*, 962 F.3d 208, 232 (7th Cir. 2020).

[50] *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984), *overruled by Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

[51] *New York v. United States Dep't of Homeland Sec*., 969 F.3d 42, 63-72 (2d Cir. 2020) (discussing *Chevron*'s applicability); *Cook Cnty., Illinois v. Wolf*, 962 F.3d 208, 226–33 (7th Cir. 2020) (finding rule arbitrary and capricious after doing the two step Chevron review); *CASA de Maryland, Inc. v. Trump*, 971 F.3d 220, 250-255 (4th Cir. 2020) *vacated and rehearing en banc provided by* 981 F.3d 311 (Dec. 3, 2020) (discussing Chevron standard and its application.).

[52] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 398–99 (2024) ("*Chevron* defies the command of the APA that the reviewing court—not the agency whose action it reviews—is to decide all relevant questions of law and interpret statutory provisions. It requires a court to ignore, not follow, the reading the court would have reached had it exercised its independent judgment as required by the APA.") (cleaned up).

[53] *See* 90 Fed. Reg. at 52170, 52218.

- Worse health outcomes, such as increased prevalence of obesity and malnutrition (especially among pregnant or breastfeeding women, infants, and children), reduced prescription adherence, and increased use of emergency rooms for primary care due to delayed treatment;
- Higher prevalence of communicable diseases, including among U.S. citizens who are not vaccinated;
- Increased rates of uncompensated care, where treatments or services are not paid for by insurers or patients; and
- Increased poverty, housing instability, reduced productivity, and lower educational attainment.[54]

Fear and confusion over whether there could be immigration consequences for immigrant families if they enroll eligible members in safety net programs potentially leads many individuals to forego benefits.[55] Following the proposal of the 2019 Rule, there was evidence that change to the public charge rule of inadmissibility and the ensuing concerns led to a chilling effect among some U.S.-citizen children—U.S.-born children with noncitizen parents were less likely than the children of U.S.-born parents to participate in programs such as SNAP and Medicaid, despite the rule not applying to them.[56] Coupled with the Administration's immigration enforcement tactics, immigrant families are currently experiencing fear and uncertainty that is negatively impacting their health and access to health care. Since the start of 2025, approximately 18% of immigrant parents have refrained from applying for aid, while another 17% have stopped participating in assistance programs.[57] 30% of immigrant parents have reported delaying or forgoing health care in the last 12 months for immigration-related fears, cost or lack of insurance, or not being able to find accessible and convenient care.[58] Additionally, 29% of immigrant adults have also reported delaying or forgoing medical care in the last year, up from 22% in 2023, with one-in-five citing the reason as immigration-related concerns.[59]

In the NPRM, DHS projects that an estimated 305,549 to 1,594,622 individuals would disenroll from or forgo benefits across six programs—Medicaid, CHIP, SNAP, TANF, SSI, and federal rental assistance. This is likely an underestimate. A KFF analysis of the possible impact on just Medicaid and CHIP indicates the chilling effect that could potentially result in forgone enrollment of about 200,000 to 500,000 uninsured people in CHIP and Medicaid, despite being eligible, and

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[54] *Id*. at 52218.
[55] Dulce Gonzalez & Hamutal Bernstein, *One in Four Adults in Mixed-Status Families Did Not Participate in Safety Net Programs in 2022 Because of Green Card Concerns*, URBAN INSTITUTE (Aug. 2023), https://www.urban.org/sites/default/files/2023-08/One%20in%20Four%20Adults%20in%20Mixed-Status%20Families%20Did%20Not%20Participate%20in%20Safety%20Net%20Programs%20in%202022%20Because%20of%20Green%20Card%20Concerns.pdf.
[56] Kristin F. Butcher, Luojia Hu, & Ryan Perry, *The Public Charge Rule and Program Participation Among U.S. Citizens*, 711 ANNALS AM. ACAD. POL. & SOC. SCI. 170 (2024), https://journals.sagepub.com/doi/10.1177/00027162241293910#:~:text=These%20findings%20are%20consistent%20with%20a%20%E2%80%9Cchilling,of%20what%20constitutes%20being%20a%20public%20charge.
[57] Drishti Pillai et al., *KFF/New York Times 2025 Survey of Immigrants: Health and Health Care Experiences During the Second Trump Administration*, KFF (Nov. 18, 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/.
[58] *Id*.
[59] *Id*.

a disenrollment rate ranging between 1.3 million to 4 million people dropping Medicaid or CHIP coverage.[60]

Families, including their U.S.-citizen children, that drop out of or avoid Medicaid or CHIP out of fear will face serious health consequences. They will be less likely to receive preventive care and services for major health conditions and chronic diseases and less likely to have a regular source of medical care than those with coverage. They will be more likely to postpone getting the treatment or prescription drugs their doctors recommend. Because of this, they will be more likely to wait until they are very sick to go to the hospital, even for routine or avoidable health conditions.

We are particularly concerned about the negative effect this proposal could have on pregnant woman and children. Lawfully present pregnant woman who are eligible for Medicaid or CHIP may refrain from enrolling because they are afraid of the possible consequences for their immigration status. They will be forced to choose between getting the prenatal and postnatal care they need for their health and the health of their babies and being deemed a public charge. Without that care, mothers will experience more pregnancy complications and preterm births, threatening the health of their babies. A public policy that creates perverse incentives for abortion is unconscionable.

The lack of clarity and guidance regarding the Proposed Rule has also resulted in significant misinformation about eligibility for public benefits. This situation increases the risk of fraud targeting noncitizens and their U.S.-citizen relatives. Rapid changes to immigration procedures for specific benefit categories, along with modifications to eligibility standards for programs like SNAP and Medicaid, have created uncertainty for many families. They are constantly seeking guidance as they navigate these policy changes and their implications for their families and immigration status. Additionally, service providers face widespread confusion about eligibility standards amid these overlapping changes, making it difficult for them to advise their clients and help them make informed decisions. Without proper guidance from the Department, families risk being misled by disinformation and falling prey to fraudulent actors seeking to exploit their lack of understanding of these complex bureaucratic processes.

Implementation of this NPRM will only exacerbate these trends and will undoubtedly have negative spillover effects on entire communities by deterring individuals from seeking early and preventative care, worsening outbreaks of infectious diseases, and straining already overextended emergency services.[61] The Department itself cites estimates that the fear and confusion around the Proposed Rule could potentially lead to an excess of 4,000 deaths annually, based on a study conducted in relation to the 2019 Rule.[62] The Department is fully aware of the adverse impact this Proposed Rule would have if finalized and yet maintains the pretense that its purported goal is that of self-sufficiency. This NPRM, in actuality, is one of deterrence; its consequences, if finalized, are very likely life-threatening and punitive in nature.

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[60] Samantha Artiga et al., *Potential "Chilling Effects" of Public Charge and Other Immigration Policies on Medicaid and CHIP Enrollment*, KFF (Dec. 2, 2025) https://www.kff.org/medicaid/potential-chilling-effects-of-public-charge-and-other-immigration-policies-on-medicaid-and-chip-enrollment/.

[61] Maya Goldman, *The Health Impact of Trump's New "Public Charge" Rule*, AXIOS (Nov. 20, 2025), https://www.axios.com/2025/11/20/trump-public-charge-rule-health-impact.

[62] *See* 90 Fed. Reg. at 52218.

b. The Proposed Rule Would Negatively Impact Family Unity and Stability.

This Proposed Rule also undermines family unity, which is the cornerstone of the American immigration system and a foundational principle of Catholic social teaching. If implemented, the Proposed Rule would deny many individuals a lawful means through which to reunify or remain with family in the United States. Such effects would be felt not only by the noncitizen applicants, but also by their U.S.-citizen and lawful permanent resident (LPR) family members.

In 2020, following the initial implementation of the 2019 Rule, it was expected that hundreds of thousands of immigrants would be blocked each year from obtaining a green card.[63] Some estimates indicated the most severe drop would come in the category of immediate relatives of U.S. citizens, with a 47% drop in the category between Fiscal Years 2016 and 2021.[64] Given the expansion of discretion authorized by the NPRM, it is likely that these predictions are conservative.

As discussed previously, the proposed changes in the NPRM have a chilling effect on mixed-status families and their enrollment in benefit programs due to fear and confusion over its impact. Such a chilling effect and the resulting reduced participation in health coverage and other assistance programs would negatively affect the health and financial stability of immigrant and mixed-status families, as well as the growth and healthy development of their children.[65] With an estimated one-in-four children living in households with at least one immigrant parent, with a vast majority of these 19 million children being U.S. citizens, the magnitude of this impact cannot be ignored.[66]

Even if noncitizen parents understand the requirements of the Proposed Rule, they would still have to discern whether to utilize public benefits for which they are eligible—and which could help ensure their families' access to safe housing and sufficient nutrition—knowing that such use could prevent them from later adjusting status and could lead to their families' eventual separation. This is a choice that no family should have to make. Further, the potential decline to benefit use does not advance the public policy goal of making such benefits available to further support the development of U.S.-citizen children.

c. The Proposed Rule Will Have Damaging Economic Effects.

The Department is also cognizant that the reductions in federal and state transfers could have downstream impacts "on [s]tate and local economies, large and small businesses, and individuals," and that "the rule might result in reduced revenues for health care providers, such as hospitals and nonprofits, participating in Medicaid, companies that manufacture medical supplies or pharmaceuticals, grocery retailers participating in SNAP, agricultural producers who grow foods that are eligible for purchase using SNAP benefits, or landlords participating in federally funded

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[63] Aaron Reichlin-Melnick, *With Public Charge Rule Now in Effect, Trump Achieves One of the Largest Cuts to Legal Immigration,* AMERICAN IMMIGRATION COUNCIL (Feb. 24, 2020), https://www.americanimmigrationcouncil.org/blog/trump-public-charge-rule-in-effect/.

[64] *Id*.

[65] Samantha Artiga, *supra* note 54.

[66] Drishti Pilliai, Akash Pillai, & Samantha Artiga, *Children of Immigrants: Key Facts on Health Coverage and Care,* KFF (Jan. 15, 2025), https://www.kff.org/racial-equity-and-health-policy/children-of-immigrants-key-facts-on-health-coverage-and-care/.

housing programs."[67] Despite its own estimations of a potentially detrimental effect on some of our nation's most essential industries and workers, the Department persists.

The NPRM estimates there would be an $8.97-billion reduction in transfer payments annually due to disenrollment or forgone enrollment in public benefits programs by members of households that include noncitizens who may be receiving public benefits.[54]

Hospitals will likely see the largest impact. The Department estimates that, of the $5.29-billion reduction in federal transfers alone, 60% or $3.4 billion will be attributable to decreased federal Medicaid and CHIP funding. But given the Department's probable underestimation of disenrollments, this number too is likely a significant underestimation.

Immigrants and citizens who go without health care coverage because of this rule will continue to get sick and need health care. The hospitals that treat them when they present at the emergency room with no insurance will see increases in uncompensated care. Increased uncompensated care burdens could threaten the ability of hospitals to remain viable and maintain their level of services, especially safety net hospitals serving low-income communities or areas with large numbers of immigrants.

DHS repeats several times the goal that immigrants be self-sufficient. Yet its proposal undermines that goal, both for immigrants seeking to come to the United States or to become green card holders and for those who are already LPRs. Because of the chilling effect, many low-income immigrants who are not subject to the public charge test will nonetheless avoid the very assistance they need to maintain their employment, for example health care and housing. With that assistance, they can enjoy continued and better employment such that they no longer need public benefit programs. Without that assistance, they could lose their jobs and their ability to support their families and contribute to the community. The economy would suffer as well, in both lost income taxes on wages and negative impact on industries that lose workers, as well as lost spending by now jobless families.

d. The Proposed Rule is Likely to Increase Dependency on Charitable Services.

The implementation of this Proposed Rule stands to exacerbate the challenges faced by individuals already teetering on the edge of poverty, ultimately pushing more people into deeper economic hardship and increasing their reliance on charity. By categorizing the lawful use of specific public benefits as a liability for adjustment purposes, this Proposed Rule disproportionately endangers several vulnerable demographics. Notably, it places at risk groups such as refugees and asylees who have lawfully requested and been granted safety and stability, children residing in foster care who rely on these benefits, elderly individuals, and immigrant families living with U.S.-citizen relatives. The consequences of this Proposed Rule could create a cascading effect that undermines the dignity and opportunities of those who rely on public assistance, even for a brief period.

As noted above, this Proposed Rule will hinder—not promote—self-sufficiency. Catholic Charities agencies invest heavily in employment services, English classes, financial coaching, and wrap-around case management so families can move off assistance quickly. When clients lack

[67] 90 Fed. Reg. at 52170, 52218.

temporary health or nutritional support, crises escalate; parents miss work; children fall behind; and chronic conditions worsen. This delays workforce entry, reduces earnings, and undermines long-term fiscal gains. Discouraging prudent short-term support risks sacrificing long-term economic participation and tax revenue. One Catholic Charities agency shared an example of a family that had recently arrived in the country and needed temporary support during a very vulnerable time as they waited for their Employment Authorization Documents (EADs) to be issued. The organization helped them obtain temporary public assistance, and as soon as they received their EADs, they immediately began working toward the goal of self-sufficiency—working two jobs, enrolling in English and technical courses, and eventually becoming business owners. Without such support, the family might have fallen into poverty immediately after arriving in the United States and required long-term charitable aid or public assistance, delaying their ability to work and pay taxes.

III. The Proposed Rule Would Place a Significant Burden on State and Local Agencies that Manage Public Benefits Programs.

Churning in public benefit programs results in high administrative costs for government agencies that manage them and for charitable organizations, like Catholic Charities agencies, that assist families with the application process. The confusion surrounding the Proposed Rule's changes, along with the anticipated chilling effect on U.S. citizens and the small group of qualified noncitizens, may prompt eligible individuals to withdraw from public benefit programs. Those who exit these programs could find themselves needing to re-enroll when their household situations worsen due to a lack of resources to fill in the gap. This cycle of exiting and re-entering these programs incurs additional administrative costs for federal and state agencies that must verify an applicant's eligibility. Catholic Charities agencies that help applicants navigate the process would also have to incur additional costs. To ensure compliance, these agencies may need to implement new screening questions and modify existing systems, which will require extra resources and staff time. Additionally, they will need to update public information materials and forms to educate families about the changes and their potential impacts. A 2014 study estimated that states spend around $80 to certify each household that churns in SNAP.[68] When adjusted for inflation, this estimate is likely to have doubled by 2025. The increased burden on government agencies and community service providers, along with the potential loss of benefits for qualified individuals, undermines the purpose and effectiveness of having a public benefit system.

IV. The Proposed Rule Erodes Trust in Public Systems.

The recent, abrupt changes to vital social programs like SNAP and Medicaid have posed a significant threat to public trust in our social services system. These modifications, at times implemented without sufficient data and analysis, have left many Americans uncertain about their eligibility and the programs designed to support them, and raise skepticism about the very fairness and effectiveness of the support available during times of need. This Proposed Rule is another change that will result in public distrust of the system. Some of the most vulnerable among us—

[68] Mills, Gregory, Tracy Vericker, Heather Koball, Laura Wheaton, Key Lippold, & Sam Elkin, *Understanding the Rates, Causes, and Costs of Churning in the Supplemental Nutrition Assistance Program (SNAP)*, https://www.fns.usda.gov/research/snap/understanding-rates-causes-and-costs-churning-supplemental-nutrition-assistance-program-snap (last accessed on December 10, 2025).

survivors of trafficking and domestic violence, children, refugees, elders, and those facing other hardships—rely heavily on the compassion and integrity of public benefit programs to help them get through difficult periods in their lives. Unfortunately, as trust erodes, they are beginning to question the guidance from case managers they once relied upon. Seeking to protect themselves, many are opting to disenroll from programs they genuinely need, putting their health and well-being, as well as that of their families, at significant risk. Increased disenrollment will lead to a rise in hunger and homelessness, placing even greater demands on food pantries, emergency assistance funds, shelters, and mental health services. Arbitrary policy changes to public benefit programs do not strengthen public confidence in our social safety nets; they undermine it, and the resulting human and societal consequences are catastrophic.

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We respectfully urge the Department to rescind this Proposed Rule in its entirety. In its current form, it is not only contrary to the law, but it will only further instill fear and confusion among immigrants and their U.S.-citizen family members. There is also enough evidence to indicate that this Proposed Rule, as written, will have detrimental effects on communities across the country, causing damage to people's health, the economy, and the common good.

Respectfully submitted,

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