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December 4, 2018

United States Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Ave. NW
Washington, DC 20529-2140

Re: DHS Docket No. USCIS-2010-0012-0001, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Sir/Madam:

On behalf of the Hep B United Coalition, I am writing in response to the Department of Homeland Security's (the Department) Notice of Proposed Rulemaking (NPRM) to express our strong opposition to the changes regarding "public charge," published in the Federal Register on October 10, 2018.

Hep B United is a national coalition of over 40 organizations in 19 states dedicated to reducing the health disparities associated with hepatitis B by increasing awareness, screening, vaccination, and linkage to care for high-risk communities across the United States. In the U.S., up to 2.2 million people are living with chronic hepatitis B infection, only 25 percent are aware of their infection, and less than 10 percent of infected individuals are able to access care and receive treatment. Hepatitis B is associated with significant disparities in the U.S. Asian American, Pacific Islander, and African communities make up 80% of the chronic hepatitis B infection burden.

Among those chronically infected with hepatitis B, an estimated 70 percent are non-U.S. born and face unique barriers in accessing health care services. **The proposed rule would exacerbate hepatitis B-related disparities and reverse progress made to eliminate hepatitis B in the U.S.** Additionally, hepatitis B vaccination coverage among all adults in the U.S. is very low, at only 25 percent. The proposed rule could lead to increased prevalence of communicable diseases like hepatitis B, including among members of the U.S. citizen population who are not vaccinated. The proposed rule would essentially create major barriers to hepatitis B prevention efforts underway and severely limit access to health care services for communities at highest risk of hepatitis B infection, including immigrant families, pregnant women, and their U.S. born children.

The proposed rule will have a dramatic impact on Asian American and Pacific Islander (AAPI) families. In recent years, three out of every ten individuals obtaining permanent residence status are from Asia and Pacific Island nations.¹ Forty percent of the millions of individuals and families waiting in long backlogs for family-based immigration are from Asia and Pacific Island nations.² All of these potential new Americans would be scrutinized under the new proposed rule and many would be deterred from participation in programs that they are eligible for and need to improve their health and well-being and the health and well-being of their families.

While there is no evidence that the utilization of any government programs by AAPIs is higher than other populations, the proposed rule would deter many of these individuals and families from continuing to participate in programs such as Medicaid, SNAP and public housing given both the direct impact on those eligible and enrolled, and those who will be deterred from enrolling due to the chilling effect described below. As such, the rule is dangerous for patient's health as well as public health if immigrants cannot or are fearful of seeking health care. In addition, the effect will be increased costs on health care providers as patients are forced to forego routine care and rely on emergency room visits and hospitalizations.

The Proposed Rule Threatens to Dramatically Limit Who is Allowed into the U.S. and Who is Allowed to Stay

The proposed rule would greatly expand the public charge test in unprecedented ways. By heavily weighting many factors that impact AAPI communities, the proposed rule will limit which AAPI individuals and families are allowed to enter the U.S. and which are allowed to stay or apply for permanent residency. Being under 18, over age 62, having less education and limited English proficiency are all negatively weighted factors against an applicant. This has the potential to disproportionately impact AAPIs given that one in three AAPIs are limited English proficient. In addition, the proposal would equate any person with a serious health condition, such as chronic hepatitis B infection, as effectively having a "pre-existing condition" that disqualifies them for immigration. This would have a profound impact on racial and ethnic minorities, including AAPIs, who because of many social determinants of health, disproportionately experience a number of chronic conditions including certain types of cancer, diabetes and heart disease.

Many individuals living with chronic hepatitis B lead long, productive, healthy lives thanks to the availability of highly effective treatment options that prevent liver disease and liver cancer. Living with this "pre-existing condition" also means living with stigma and facing discrimination. Hepatitis B is a "silent" epidemic –many individuals, especially from AAPI communities are afraid to even speak about or reveal their hepatitis B status to family members. The proposed rule would further stigmatize this chronic condition, worsen health outcomes, including lead to

¹ Department of Homeland Security, Yearbook of Immigration Statistics 2016, <https://www.dhs.gov/immigration-statistics/yearbook/2016>.

² Department of State, Annual Report of Immigrant Visa Applicants, 2017, https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/WaitingList/WaitingListItem_2017.pdf.

already increasing liver disease and liver cancer rates in the U.S., and increased health care costs.

In addition, the proposed rule could cause legal immigrants to be denied a green card if they earn less than 125% of Federal Poverty Level (less than \$31,375 for a family of 4 in 2018), **even if they apply for no benefits, which could indirectly affect U.S. citizen children**, since although a child's use of benefits would not be a negative factor in a parent's public charge determination, because Federal Poverty Level is determined by household size, having a child or a number of children would make the 125% of Federal Poverty Level income test harder to meet. Further, the only heavily weighted positive factor that would be taken into account in an individual's green card application is if they earn more than 250% of Federal Poverty Level, which is \$62,750 for a family of 4 in 2018, and higher than the U.S. median household income of \$61,372 in 2017 according to the U.S. Census Bureau (<https://www.census.gov/library/publications/2018/demo/p60-263.html>). Placing such a high income requirement on families, including those who apply for no benefits, could result in discrimination against highly talented and hard working families who greatly contribute to the U.S. workforce.

While on its face the rule maintains the statutorily required "totality of circumstances" test, it re-defines how the test will be used for every applicant for lawful permanent resident status, regardless of whether that applicant has used any of the applicable public benefits. The proposed rule adds to, and heavily weights against the applicant, a number of factors that will restrict immigration. As such, the proposal is a drastic expansion beyond the currently used standard which only considers whether a person is likely to rely primarily on the government for "subsistence" income or institutionalized support. These provisions leave a lot of power in the hands of USCIS officials who will determine the likelihood of using one or more benefits.

The Proposed Rule Would Punish Immigrant Families for Meeting their Basic Needs and Create a Chilling Effect, Threatening the Health and Well-being of Millions of Families and Public Health

Under the proposed rule, any person who seeks or uses Medicaid, Medicare Part D, SNAP or housing assistance could be denied the ability to get permanent legal status or even enter the U.S. The proposed rule expands the number of programs that are necessary for meeting basic needs and would punish immigrants for using services that meet their basic needs, like health, nutrition and housing and enable them to work.

The Migration Policy Institute has estimated that 1.4 million AAPIs who are not U.S. citizens are members of families who rely on Medicaid and CHIP.³ This includes 182,000 children. 523,000 AAPIs who are not yet U.S. citizens are members of families who rely on SNAP to put food on the table. The proposed rule explicitly counts use of Medicaid and SNAP against a person's immigration status. **Further, the proposal seeks comment on whether CHIP should be**

³ Migration Policy Institute, Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use, June 2018, <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>

added to the list of negatively weighted programs -- something that we strongly oppose.

Together Medicaid and CHIP provide basic healthcare for individuals, children, and families that allows them to work, have better economic futures, and promote self sufficiency and our collective public health. Even the Department concedes that the proposed rule would “increase poverty of certain families and children, including U.S. citizen children” and lead to “worse health outcomes, including prevalence of obesity and malnutrition, especially for pregnant and breastfeeding women, infants, and children,” among other health impacts.

The health of parents and children are inextricably linked. As such, any change that results in parents skipping or disenrolling from health, nutrition or housing programs will impact the health of children across the life-span. For example, over 19 million, or one in four, children live with an immigrant parent nationwide.⁴ The proposed rule will have a documented and substantial chilling effect, undermining access to essential health, nutrition and housing programs for eligible immigrants and their families, including those with U.S.-born children. The threats of chilling effects are of major concern, as history tell us. After the enactment of welfare reform in 1996, use of public benefits programs dropped significantly, even among groups such as refugees and U.S.-born children who were supposedly exempt from public charge determinations.

Community-based hepatitis B coalitions are working to bridge access to health care services, including hepatitis B testing and vaccination for immigrant communities across the United States. Many include patient navigation programs that help enroll patients in health insurance coverage, including Medicaid and CHIP programs. Hep B United clinic partners have already seen the chilling effect of this proposed rule with regular patients who have cancelled appointments and stopped accessing treatment. If finalized, this rule is likely to result in millions of individuals withdrawing from public benefits programs, including those who are not subject to the public charge test but are fearful that accessing public assistance programs will negatively affect their immigration status. Decreased enrollment in these programs would leave immigrants and their families more susceptible to food insecurity, poor health, and financial and housing instability.

The Proposed Rule Would Jeopardize the Health Care Safety Net and Undermine the Nation’s Public Health and Patient Access to Care

Nationally, Community Health Centers serve 28 million underserved patients, including half of all AAPIs in poverty and individuals living with hepatitis B. The Health Center model and mission is to ensure access to affordable health care so that all individuals can contribute to their communities and reach their full potential. As currently drafted, this proposed rule is in direct contrast to the Health Center vision and mission. It will drive eligible AAPI families away from health coverage and health care providers.

⁴ Kaiser Family Foundation, Nearly One in 20 Million Children Live in Immigrant Families that Could be Affected by Evolving Immigrant Policies, April 2018, <https://www.kff.org/disparities-policy/issue-brief/nearly-20-million-children-live-in-immigrant-families-that-could-be-affected-by-evolving-immigration-policies/>.

This proposal will harm Health Centers' financial stability. Immigrants' withdrawal from health insurance programs will undoubtedly lead to higher levels of uncompensated care. An analysis of 30 AAPI-serving health centers shows that up to 86,000 patients may disenroll from Medicaid, which translates to approximately \$65 million dollars. Health Centers—who generally run on margins of less than 1 percent—will have to cover these increased costs either with federal grants or by tapping into other vital funding streams that support the Health Center model of care.

Without health centers and timely primary health care, many patients will end up with worse health outcomes and more complex, costlier health services for them, their families, and their communities. Studies show that comparably, care not provided at a health center cost \$2371 more per patient per year. This proposed policy only makes patients costlier to treat in the long run, both for the individual and the U.S. taxpayer.

For these reasons, the Department should immediately withdraw the proposal. We appreciate the opportunity to provide comments. Please contact Kate Moraras, Director of Hep B United, at kate.moraras@hepb.org for further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Moraras", with a stylized flourish at the end.

Kate Moraras, MPH
Director, Hep B United