American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

March 30, 2022

Alejandro Mayorkas
Secretary
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: USCIS-2021-0013

Re: Public Charge Ground of Inadmissibility Proposed Rule

Dear Secretary Mayorkas:

On behalf of the 40,000 members of the American College of Emergency Physicians (ACEP), we wish to comment on the "Public Charge Ground of Inadmissibility" proposed rule. We strongly support the changes the Department of Homeland Security (DHS) is making to the definition of "public charge," moving away from the definition established by the previous Administration in an August 2019 final rule.[1]

ACEP had previously strongly objected to that regulation.[2] Both by law and by oath, emergency physicians care for all patients seeking emergency medical treatment; therefore, we support any federal initiative that allows physicians to uphold their responsibility to provide care to any persons, including those who are undocumented. ACEP believes that the prior policy, if left implemented, could lead us down a slippery slope that could potentially force us to violate some of our core values as emergency physicians.

Overall, this proposed rule would repeal prior restrictions for some legal immigrants, who were already in the country, to obtain green cards if they had become dependent on non-cash public benefits such as food stamps, public housing, Medicare Part D low-income subsidies (LIS), most Medicaid services, and the Children's Health Insurance Program (CHIP). If finalized, this revised policy will ensure millions of Americans no longer have to make the extremely difficult choice of foregoing the chance to become a U.S. citizen or receiving vital benefits. They could freely choose to either re-enroll or remain enrolled in essential programs and continue or newly receive benefits for which they are eligible.

No longer using Medicaid and CHIP coverage as a reason to deny citizenship will result in better health and health outcomes both for affected individuals as well as others

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[1] 84 FR 41292 (Aug. 14, 2019), as amended by Inadmissibility on Public Charge Grounds; Correction, 84 FR 52357 (Oct. 2, 2019).
[2] ACEP's comments on the previous Public Charge Ground of Inadmissibility rule are found here https://www.acep.org/globalassets/new-pdfs/advocacy/acep-comments-on-inadmissiblity-on-public-charge-grounds-proposed-rule.pdf.

in our country. As emergency physicians, we see every day the positive effect that insurance coverage has on our patients and their overall health—and this correlation is supported by a plethora of research. Medicaid coverage is associated with improved self-reported health status; higher rates of preventive health screenings; lower likelihood of delaying care because of costs; decreased hospital and emergency department utilization; and decreased infant, child, and adult mortality rates.[3] A Center on Budget and Policy Priorities study found that between 2014 and 2017, the lives of 19,200 adults were saved due to their states' expansion of Medicaid; conversely, about 15,600 adults lost their lives due to "health-care-amenable" conditions in states without Medicaid expansion. The Center cites increases in regular check-ups and prescriptions filled for heart disease and diabetes and decreases in the share of low-income adults without a primary care physician or those who skip medications due to cost as primary reasons for these mortality rates.[4]

We believe that this proposed policy will curb the uninsurance trends directly caused by the August 2019 rule. According to the Urban Institute, prior to 2019, there had been a substantial increase over the past decade in the percentage of citizen children with noncitizen parents and citizen children with citizen parents receiving coverage under Medicaid and CHIP. Between 2008 and 2016, Medicaid and CHIP participation increased 15.5 percentage points among citizen children with noncitizen parents and 10.5 percentage points among children with citizen parents.[5] However, the Trump Administration's policy has since had chilling effects on immigrant families' participation in safety net programs. Although the policy officially did not take effect until February 2020, the country experienced Medicaid enrollment changes starting in late 2018 when the policy was first proposed and publicized. In a survey conducted in September 2019, 47 percent of health centers reported that "many or some immigrant patients declined to enroll themselves in Medicaid over the past year" with 38 percent reporting that "many or some immigrant patients declined to enroll their children in Medicaid over the past year."[6] By December 2020, 17.8 percent of adults in immigrant families reported that "they or a family member avoided noncash benefits or other help with basic needs because of green card or other immigrant concerns."[7]

Losing health care coverage hampers the financial stability of families and creates a burden to receiving necessary care. When people become uninsured, they may delay or avoid seeking vital care. In fact, 22 percent of adults in immigrant families with citizen children and 39 percent of adults in immigrant families with noncitizen children, both of which experienced a loss of insurance due to the August 2019 rule, reported an unmet need for medical care in the family due to costs or problems paying family medical bills.[8] Deferring or delaying care will often result in the exacerbation of a person's condition or symptoms, and eventually, result in a trip to the emergency department (ED).

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[3] Robert Wood Johnson Foundation, "Medicaid's Impact on Health Care Access, Outcomes and State Economies," February 2019, available at: https://www.rwjf.org/en/library/research/2019/02/medicaid-s-impact-on-health-care-access-outcomes-and-state-economies.html

[4] Center on Budget and Policy Priorities, "Medicaid Expansion Has Saved at Least 19,000 Lives, New Research Finds," November 2019, available at: https://www.cbpp.org/sites/default/files/atoms/files/11-6-19health.pdf

[5] Urban Institute, "Proposed Public Charge Rule Could Jeopardize Recent Coverage Gains among Citizen Children," December 2018, available at: https://www.urban.org/sites/default/files/publication/99453/proposed_public_charge_rule_could_jeopardize_recent_coverage_gains_among_citizen_children_0.pdf

[6] Kaiser Family Foundation, "Impact of Shifting Immigration Policy on Medicaid Enrollment and Utilization of Care among Health Center Patients," October 2019, available at: https://files.kff.org/attachment/Issue-Brief-Impact-of-Shifting-Immigration-Policy-on-Medicaid-Enrollment-and-Utilization-of-Care-among-Health-Center-Patients

[7] Urban Institute, Immigrant Families Continued Avoiding the Safety Net During the COVID-19 Crisis," February 2021, available at: https://www.urban.org/sites/default/files/publication/103565/immigrant-families-continued-avoiding-the-safety-net-during-the-covid-19-crisis.pdf

[8] Urban Institute, "Many Immigrant Families with Children Continued to Avoid Public Benefits in 2020, Despite Facing Hardships," May 2021, available at: https://www.urban.org/sites/default/files/publication/104279/many-immigrant-families-with-children-continued-avoiding-benefits-despite-hardships_0.pdf

At this point, due to the progression of their condition, the person's care in the ED will be much costlier and more complex than if he or she had earlier access to more routine care in a physician's office. An increase in the uninsured percentage leads to an overall worsening of health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence. It also affects patients' "social determinates of health," leading to increased rates of poverty and housing instability and reduced productivity and educational attainment. Therefore, an increase in the insured percentage of the population, which this policy indicates, will improve overall health outcomes.

This proposal would alleviate the apprehension of non-citizens in going to the doctor, a result of the prior policy. When people do not seek treatment for communicable diseases out of fear of reprisal to their immigration status, the diseases can spread and affect anyone, citizens and non-citizens alike, becoming a public health issue that impacts the entire community.

If finalized, the rule may help maintain the financial viability of the emergency care safety net. Emergency physicians proudly serve as the country's safety net, treating all patients regardless of their insurance status or ability to pay. As a result of this vital role that we play, we incur unique financial risks, which include higher rates of uncompensated care than other clinicians. We depend on adequate reimbursement from public and private payers to allow for the recruitment and retention of sufficient numbers of qualified providers with sufficient staffing 24 hours a day, seven days a week. By eliminating barriers to enrollment in noncash benefit programs, which we anticipate would increase the number of enrollees in government-assisted health insurance programs, uncompensated care costs could decline, guaranteeing the viability of the emergency care safety net.

We commend the Administration's efforts to reverse this dangerous policy and appreciate the opportunity to offer our support for the proposed rule. We urge DHS to finalize the rule as proposed.

If you have any questions, please contact Jeffrey Davis, ACEP's Director of Regulatory Affairs, at jdavis@acep.org.

Sincerely,

Gillian Schmitz, MD, FACEP

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