



HISPANIC BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

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December 10, 2018

Samantha Deshommès, Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services,
Department of Homeland Security (DHS)
20 Massachusetts Avenue NW
Washington, DC 20529-2140

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

Dear Chief Deshommès:

On behalf of the Hispanic Bar Association of the District of Columbia (HBA-DC), I write in response to the DHS's Notice of Proposed Rulemaking (NPRM) stating that a non-citizen will be inadmissible if it is determined that they are likely to become a public charge at any time, which would apply to immigrants who seek adjustment of status, a visa, or are applying for admission.¹ HBA-DC opposes this proposed rule because (1) it will force Latinos to make impossible decisions² concerning the health and livelihood of their families, and (2) will disproportionately burden both employers and government agencies that will need to accommodate the new regulations.³ We urge you to immediately withdraw this NPRM.

The Proposed Rule Will Force Latino Families to Make Impossible Decisions

This proposed rule will harm the health of Latino immigrants and their family members.⁴ Although DHS projected that only 2.5% of the impacted Latino population would avoid health coverage due the proposed rule, experts predict a significantly larger population will avoid

¹ U.S. Citizenship and Immigration Services, Notice of Proposed Rulemaking, *Inadmissibility on Public Charge Grounds*, 83 Fed. Reg. 51114 (proposed Oct. 10, 2018, <https://www.regulations.gov/document?D=USCIS-2010-0012-0001>)

² Jacobs, Douglas, *A Tortured Choice for Immigrants: Your Health or Your Green Card?*, NEW YORK TIMES, (Oct. 10, 2018), <https://www.nytimes.com/2018/10/10/opinion/immigration-trump-health-public-charge.html>

³ Anderson, Stuart, *How Will the Public Charge Impact Employers and Immigrants?*, FORBES, (Oct. 1, 2018), <https://www.forbes.com/sites/stuartanderson/2018/10/01/how-will-the-public-charge-rule-harm-employers-and-immigrants/?fbclid=IwAR0BEHfMv21yrQOhB-mROJq9w9VrmxlmWQpAdP5H9VKZXHkGTqpNALzdnMA#4c2099234995>

⁴ Parmet, Wendy, *The Health Impact of the Proposed Public Charge Rules*, (Sep. 27, 2018), <https://www.healthaffairs.org/doi/10.1377/hblog20180927.100295/full/>

enrollment out of fear of negative repercussions.⁵ This larger prediction is due to the fact that, nationwide, 25% of children live in a family with an immigrant parent and nearly 86% of these children are citizens.⁶ Recklessly expanding the scope of what constitutes a public charge will prevent Latino American citizens born to immigrant parents from accessing health care for fear of causing their parents to be deported. Furthermore, the requirement that green card applicants make 250% above the poverty threshold may result in denials for an estimated 56% of all family-based green card applicants.⁷ This type of income-based discrimination is both myopic and illogical. A person's current earnings does not fully capture the rich qualities an individual will contribute to a country, and certainly mocks the American ideal that current earnings do not limit potential for future earnings. Implementing this proposed rule will unjustly exclude Latino immigrants from being considered for citizenship, which can imperil mixed-status families that may include U.S.-born children and spouses. Much like the fiasco and trauma of separating children from their parents at the border, there is no doubt that this policy will cause significant harm to the Latino population of the United States that will be felt for generations to come.⁸

The Proposed Rule Will Disproportionately Burden Employers and Government Agencies

The proposed rule will cause US employers to significantly lose out on their investments in highly skilled workers whom that they have trained. This is because of the immense difficulty the proposed rule will pose to extend H-1B visas.⁹ Potentially, a high percentage of H-1B professionals will not have their visas renewed because they will fail to meet the new poverty line threshold.¹⁰ Moreover, the wait time for employers to learn whether an applicant has been improved will increase, as an entirely new form will have to be submitted along with evidence in an already exhaustively long process.¹¹ Similarly, DHS estimates the rule change will affect 500,000 applicants and compliance costs would exceed \$1.3 billion over the next ten years.¹² These cost estimates pale in comparison to what the Department of State would have to spend to apply these new standards to the millions of applications filed in foreign countries.¹³

Immigrants deserve less stringent standards to be able to live and work in the United States without fear of deportation, which includes access to Medicare for themselves and family members, as well as access to employment that pays less than 250% above the poverty line. We

⁵ *Id.*

⁶ *Proposed Changes to "Public Charge" Policies for Immigrants: Implications for Health Coverage*, (Sep. 24, 2018), <https://www.kff.org/disparities-policy/fact-sheet/proposed-changes-to-public-charge-policies-for-immigrants-implications-for-health-coverage/>

⁷ See Anderson, *Forbes*.

⁸ Whitener, Kelly, *Administration Moves Forward With Proposed Public Charge Regulation; Comments Due in December*, (Oct. 5, 2018), <https://ccf.georgetown.edu/2018/10/05/administration-moves-forward-with-proposed-public-charge-regulation-comments-due-in-december/>

⁹ The H-1B VISA program is designed to allow employers with United States companies to hire foreign employees for a temporary period who possess a bachelor's degree or higher within a specialized field. U.S. Citizenship and Immigration Services, *H-1B Fiscal Year (FY) 2019 Cap Season*, (Apr. 12, 2018), <https://www.uscis.gov/working-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-fiscal-year-fy-2019-cap-season>; See Anderson, *Forbes*.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

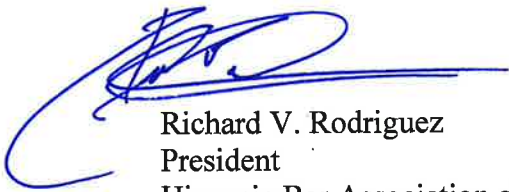
¹³ *Id.*

believe that the rule making process requires good faith and transparency. HBA-DC strongly opposes this proposed rule and urges you to immediately withdraw it.

Founded in 1977, HBA-DC is a non-profit organization dedicated to the professional development of its membership and to supporting the Latino community in the Washington, DC area. The HBA-DC membership includes several hundred lawyers practicing in Washington, DC, Maryland, and Virginia, Latino students attending local law schools.

Please do not hesitate to reach out to me, Richard V. Rodriguez at President@hbadc.org, if you have any questions with respect to this comment. Thank you for your attention to this issue.

Sincerely,



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