

United States Senate

WASHINGTON, DC 20510

December 10, 2018

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

Re: DHS Docket No. USCIS-2010-0012

To Relevant Parties:

We write to express our opposition to the Department of Homeland Security's ("the Department") Notice of Proposed Rulemaking addressing 212(a)(4) of the Immigration and Nationality Act, DHS Docket No. USCIS-2010-0012, and submit a formal request that the Department withdraw the proposed regulation. This proposal would upend long-standing policy regarding the meaning and application of the "public charge" provisions of immigration law. As members of the United States Senate responsible for setting federal policy regarding immigration and eligibility for public benefit programs, we are deeply concerned that the rule would mark a fundamental and unnecessary change in our nation's laws. We urge you to immediately withdraw it.

Under current immigration law, potential immigrants are already required to prove that they will not be a burden on our country—they must show they have adequate means of financial support and they cannot be dependent on cash assistance from the government. Multiple studies show that immigrants contribute greatly to our economy by paying billions of dollars in taxes, starting businesses, and creating jobs.¹ However, this rule would raise the bar so high as to close the door on building the American Dream for the hardworking immigrant families that have been the foundation of this country.

The federal government has long recognized that certain benefits like health care, nutrition, and housing assistance are necessary to help families thrive when they fall on hard times. Such assistance should not be considered a barrier to obtaining permanent resident status in this country. Under the current public-charge policy, immigration officers can only consider cash assistance and long-term care benefits when making a public charge determination.² The

¹ Cesar Maximiliano Estrada, "How Immigrants Positively Affect the Business Community and the U.S. Economy," Center for American Progress, June 22, 2016,

<https://www.americanprogress.org/issues/immigration/news/2016/06/22/140124/how-immigrants-positively-affect-the-business-community-and-the-u-s-economy/> and Sari Pekkala Kerr and William R. Kerry, "Immigrants Play a Disproportionate Role in American Entrepreneurship," *Harvard Business Review*, October 3, 2016,

<https://hbr.org/2016/10/immigrants-play-a-disproportionate-role-in-american-entrepreneurship>.

² USCIS, *Public Charge* (June 26, 2017), <https://www.uscis.gov/greencard/public-charge>.

proposed rule seeks to penalize lawfully-present immigrant families who receive, or might receive in the future, non-cash benefits including Medicaid, Medicare Part D Low Income Subsidy, Supplemental Nutrition Assistance Program (SNAP), and federal housing assistance—potentially rendering individuals who use these benefits ineligible for permanent residency. In addition, by negatively weighting pre-existing conditions, old age, children, family status, language ability and educational attainment, this rule would unfairly penalize both families who wish to enter or remain in the U.S. as well as the U.S. citizens and Lawful Permanent Residents who wish to reunite with their parents, children and other close family members. This drastic expansion of what benefits can be considered in a public charge determination and the criteria which an immigration officer must use to determine the likelihood of using those benefits would be an extreme departure from what Congress intended.

Frightening people away from critical resources would compromise families and communities across our country. The well-being of children and parents are inextricably linked. It is impossible to single out one member of a family without having a ripple effect on children and other members of the household. One in four children in America have at least one foreign-born parent, and children of immigrants make up 31 percent of all children in families that receive relevant benefits.³ Furthermore, over nine million of these children are U.S. citizens.⁴ Experts believe this change could result in thousands, if not millions, of children losing access to essential benefits because of a broad “chilling effect” that will cause immigrants to withdraw their children from government services.⁵ Reports from across the country have confirmed disenrollment by families from SNAP and health insurance, driven by fear.⁶

Moreover, in the midst of a national affordable housing crisis, the rule cruelly forces immigrants and their families to make the impossible choice of receiving critical housing benefits and risking their ability to stay in the U.S. By targeting usage of the Section 8 Housing Choice Voucher Program, the Project-Based Section 8 Rental Assistance Program, and Public Housing, the rule will directly impact thousands of immigrant families’ access to housing. To make matters worse, the rule’s chilling effects could place millions of immigrants and their family members at risk of homelessness.

The nutrition, health, housing, and stability that impacted services provide have been repeatedly shown to help children succeed. Children who receive SNAP or Medicaid are more likely to

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

⁴ *Id.*


⁵ *Id.*

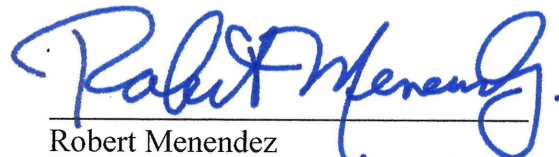
⁶ Helena Bottemiller Evich, “Immigrant families appear to be dropping out of food stamps,” *Politico*, Nov. 14, 2018, <https://www.politico.com/story/2018/11/14/immigrant-families-dropping-out-food-stamps-966256> and Megan Messerly, “Trump administration rule on public benefits having ‘chilling effect’ on immigrant health insurance enrollment,” *The Nevada Independent*, Nov. 16, 2018, <https://thenevadaindependent.com/article/trump-administration-rule-on-public-benefits-having-chilling-effect-on-immigrant-health-insurance-enrollment> and Lisa Schencker, “Illinois doctors say Trump immigration proposal already scaring away patients,” *Chicago Tribune*, Dec. 2, 2018, <https://www.chicagotribune.com/business/ct-biz-immigration-proposal-scaring-people-from-medicaid-1202-story.html>.

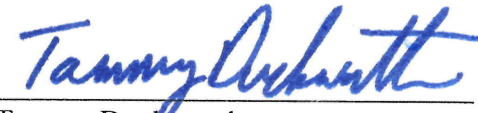
finish high school, grow up to be healthier adults, and achieve greater economic success.⁷ If this rule goes into effect, hardworking families would try to make ends meet with less – hurting children – for no other reason than to advance this administration’s anti-immigrant agenda. We believe that those families, our constituents, and the communities they live in will be irreparably harmed.

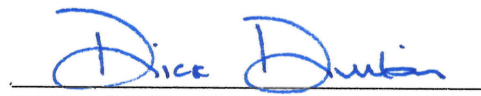
In light of the fact that this is a major shift in immigration policy counter to Congressional intent and the serious and detrimental consequences that would result from this proposed regulation, we formally request the administration to reverse course and withdraw the proposed public charge rule.

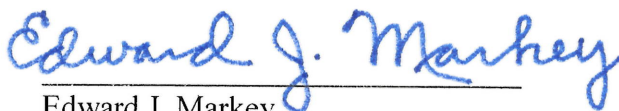
Sincerely,



Catherine Cortez Masto
United States Senator



Robert Menendez
United States Senator

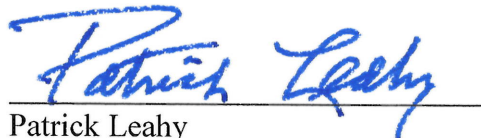

Tammy Duckworth
United States Senator


Richard J. Durbin
United States Senator

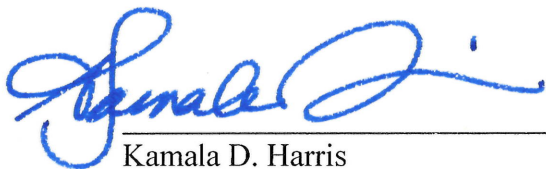

Edward J. Markey
United States Senator


Sheldon Whitehouse
United States Senator

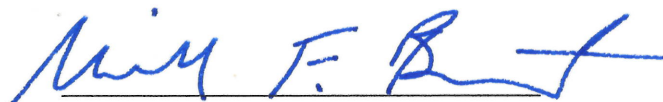

Tammy Baldwin
United States Senator


Patrick Leahy
United States Senator

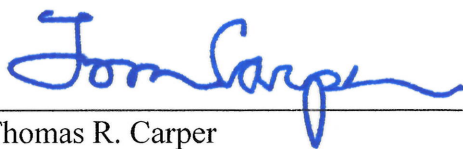
⁷ Steven Carlson et al., “SNAP Works for America’s Children,” Center on Budget and Policy Priorities, September 29, 2016, <https://www.cbpp.org/research/food-assistance/snap-works-for-americas-children> and Alisa Chester et al., “Medicaid at 50: A Look at the Long-Term Benefits of Childhood Medicaid,” Georgetown University Center for Children and Families, July 27, 2015, <https://ccf.georgetown.edu/2015/07/27/medicaid-50-look-long-term-benefits-childhood-medicaid/>.



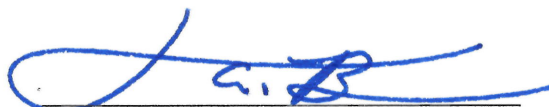
Kamala D. Harris
United States Senator



Michael F. Bennet
United States Senator



Thomas R. Carper
United States Senator



Cory A. Booker
United States Senator



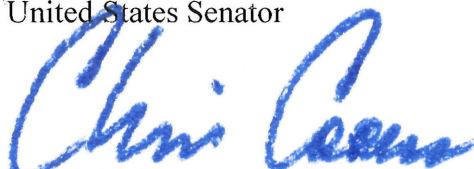
Mazie K. Hirono
United States Senator



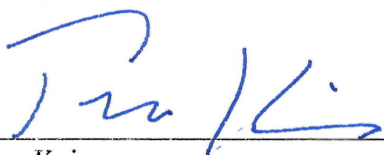
Bernard Sanders
United States Senator



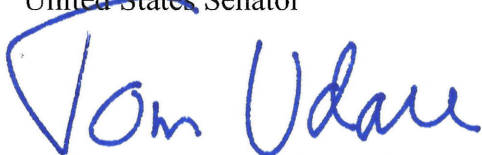
Kirsten Gillibrand
United States Senator



Christopher A. Coons
United States Senator



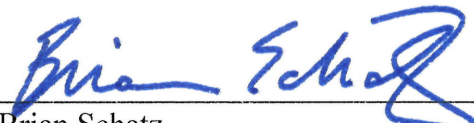
Tim Kaine
United States Senator



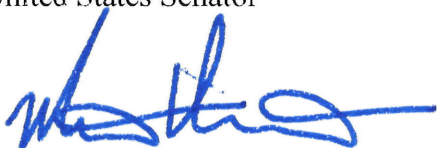
Tom Udall
United States Senator



Benjamin L. Cardin
United States Senator



Brian Schatz
United States Senator



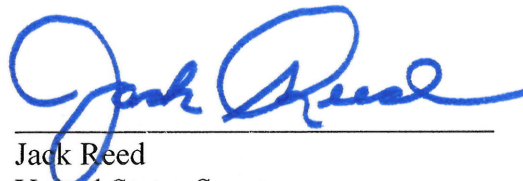
Martin Heinrich
United States Senator



Jeffrey A. Merkley
United States Senator



Chris Van Hollen
United States Senator



Jack Reed
United States Senator

Bob Casey, Jr.

Robert P. Casey, Jr.
United States Senator

Patty Murray

Patty Murray
United States Senator