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December 10, 2018

Submitted via www.Regulations.gov

Samantha Deshommès, 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, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Deshommès:

I am writing on behalf of the California Women's Law Center in response to the Department of Homeland Security's (DHS or the Department) Notice of Proposed Rulemaking (NPRM or proposed rule) to express strong opposition to the changes regarding the definition of a "public charge," that were published in the Federal Register on October 10, 2018. When a person applies to enter the United States or to adjust to Lawful Permanent Resident ("green card") status, a determination is made as to whether the person is a "public charge"—and therefore may be denied entry to the United States or a green card.

The "public charge" rule itself is already inherently problematic, but the changes in the proposed rule would unfairly expand the definition of who qualifies as a public charge. These changes are extreme and will harm women and families, and specifically impact victims of sexual violence.

We urge that the rule be withdrawn in its entirety, and that longstanding principles clarified in field guidance issued in 1999 remain in effect.

The California Women's Law Center (CWLC) is a statewide nonprofit law and policy center that breaks down barriers and advances the potential of women and girls through transformative litigation, policy advocacy and education. For 30 years, CWLC has prioritized our work fighting against gender discrimination, limitations on reproductive rights, violence against women, and attacks on women's health.

Under the current rule, someone is considered a "public charge" if they are "primarily dependent on the government for subsistence." The new proposed rule would radically expand this definition to include any immigrant who simply "receives one or more public benefits." This would drastically and unfairly increase the scope of who is considered a public charge, to include not only those who are institutionalized at government expense or receive cash benefits as their main source

of support, but also people who use certain public benefit programs to meet their basic needs, including while employed.

Currently, immigration officials consider only cash assistance, such as Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF), comparable state or local programs, and government-funded long-term institutional care, in the “public charge” test – and only when it represents the majority of a person’s support. If the proposed rule is finalized, immigration officials would be allowed to consider many additional programs in the “public charge” determination, including Medicaid, food stamps, Medicare and Section 8 housing vouchers.

The proposed rule would also unfairly give negative weight to certain factors, including whether a person is very low-income, is younger than 18 or older than 60, has a large family, or has a critical medical condition. The proposed rule would put positive weight on other irrelevant factors, including higher income and demonstrated English proficiency.

The proposed rule is harmful to women. It forces immigrant women into the untenable position of risking their immigration status by seeking public benefits to provide for themselves and their families, thereby negatively impacting their immigration status. The proposed rule also poses particular harm to survivors of domestic violence and sexual assault.

1) The proposed rule has a detrimental impact on immigrant women.

Immigrant women, especially Black, Latinx,¹ and Asian American and Pacific Islanders (AAPI), are already at higher risk of economic insecurity than men because of the gender pay gap,² other forms of discrimination,³ overrepresentation in low-wage work,⁴ and disproportionate responsibility for

¹ “Latinx” is a gender-neutral term that challenges the gender binary in the Spanish language and embraces the diversity of genders that often are actively erased from spaces. Due to the limitations of data collection, we use “Latina(s)” or “women” where research only shows findings for cisgender women, including Latinas.

² Women on average earn less than men, with even greater wage gaps for women of color, LGBTQ women, older women, and women with disabilities. See Nat’l Women’s Law Ctr., *Frequently Asked Questions About the Wage Gap* (2018), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/09/Wage-Gap-FAQ.pdf>; Nat’l Women’s Law Ctr., *The Wage Gap: The Who, Why, How, and What to Do* (2017), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/09/The-Wage-Gap-The-Who-How-Why-and-What-to-Do-2017-2.pdf>. Immigrant women likewise face a significant wage gap compared to native-born and naturalized men: foreign-born, noncitizen women, on average, earned 58 cents for every dollar earned by native-born men in 2015. Elise Gould, Jessica Schieder & Kathleen Geier, Econ. Pol. Inst., *What is the Gender Pay Gap and Is It Real?* (2015), <https://www.epi.org/publication/what-is-the-gender-pay-gap-and-is-it-real/>.

³ Discrimination and harassment based on gender, race, sexual orientation, age and disability (or a combination of these) and domestic violence also impose economic costs on women, including by disrupting and jeopardizing their employment. See, e.g., Nat’l Women’s Law Ctr., *Sexual Harassment in the Workplace* (2016), <https://nwlc.org/wp-content/uploads/2016/11/Sexual-Harassment-Fact-Sheet.pdf>; Institute for Women’s Policy Research, *The Economic Cost of Intimate Partner Violence, Sexual Assault, and Stalking* (2017), https://iwpr.org/wp-content/uploads/2017/08/B367_Economic-Impacts-of-IPV-08.14.17.pdf. Immigrant women are particularly vulnerable to abuse from employers, including discrimination and harassment, because of lack of awareness of workplace rights and fear of retaliation such as termination or being reported to immigration authorities for deportation. See, e.g., Maya Raghu, Nat’l Women’s Law Center, *Standing with Immigrant Women Workers on May Day* (2017), <https://nwlc.org/blog/standing-with-immigrant-women-workers-on-may-day/>.

⁴ Women make up two-thirds of the low-wage workforce (defined for the purposes of this discussion as jobs that pay, on average, \$11.50 per hour or less). Kayla Patrick, Meika Berlan & Morgan Harwood, Nat’l Women’s Law Ctr., *Low-Wage Jobs Held Primarily by Women Will Grow the Most Over the Next Decade* (2018), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/04/Low-Wage-Jobs-Held-Primarily-by-Women-Will-Grow-the-Most-Over-the-Next-Decade-2018.pdf>. Immigrant women are overrepresented in low-wage jobs (such as maid

caregiving,⁵ among other factors. This heightened risk for economic insecurity means that immigrant women’s ability to continue to participate in the programs targeted by the proposed rule is vitally important.

Noncitizen women are more likely to access income security programs than noncitizen men. In 2017, almost 47 percent of noncitizen Medicaid recipients were women (while 40 percent were men and 13 percent children).⁶ In 2017, almost 48 percent of noncitizen recipients of Supplemental Nutrition Assistance Program (SNAP) benefits were women, compared to 40 percent for men and 12 percent for children.⁷ Access to these programs is particularly important given that noncitizen women are often the head of their household and are also on the losing end of the largest pay gaps in the state. For instance, in 2017 Latinx women made only 54 cents on the dollar to what white men did. Access to these benefits reduces poverty and helps women, including immigrant women in low-wage jobs, meet a basic standard of living for their families.

Immigrants already face significant barriers to accessing programs like Medicaid, SNAP, and housing assistance. Discouraging immigrant women from using these programs will have a detrimental impact on their livelihood and wellbeing. Doing so would be particularly harmful to certain groups of immigrant women who can least afford to be put in the position of choosing between programs that support their safety, independence, and economic security and negatively affecting their immigration status and who most need the safety net assistance that comes from programs meant to sustain a baseline of necessary services to live.

2) The proposed rule will harm immigrant families and children.

By the Department’s own admission, the proposed rule “*has the potential to erode family stability and decrease disposable income of families and children because the action provides a strong disincentive for the receipt or use of public benefits by aliens, as well as their household members, including U.S. children.*”

There has already been a chilling effect on immigrant families seeking necessary services. Health and nutrition service providers noticed an increase in canceled appointments and requests to disenroll from means-tested programs in 2017.⁸ Early childhood education programs also reported drops in

or housekeeper, nursing, psychiatric, or home health aide, or cashier), as are women of color. American Immigration Council, *The Impact of Immigrant Women on America’s Labor Force* (2017), <https://www.americanimmigrationcouncil.org/research/impact-immigrant-women-americas-labor-force>; National Women’s Law Center, *Underpaid & Overloaded: Women in Low-wage Jobs* (2014), https://nwlc.org/wp-content/uploads/2015/08/final_nwlc_lowwagereport2014.pdf. Because many of these jobs, in addition to paying unjustly low wages, are unstable and offer few benefits, many women in the low-wage workforce are unable to support their families on their wages alone. See, e.g., Julie Vogtman & Karen Schulman, Nat’l Women’s Law Ctr., *Set Up to Fail: When Low-Wage Work Jeopardizes Parents’ and Children’s Success* (2016), <https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2016/01/FINAL-Set-Up-To-Fail-When-Low-Wage-Work-Jeopardizes-Parents-and-Childrens-Success.pdf>.

⁵ Women are more likely than men to raise children on their own, see, e.g., U.S. Census Bureau, *America’s Families and Living Arrangements 2018*, Tbl. A3, <https://www.census.gov/data/tables/2018/demo/families/cps-2018.html>, meaning that their incomes must stretch to support more family members.

⁶ National Women’s Law Center calculations based on U.S. Census Bureau, 2017 Current Population Survey, using Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles, and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 6.0 [dataset]. Minneapolis, MN: IPUMS, 2018. <https://doi.org/10.18128/D030.V6.0>.

⁷ *Id.*

⁸ Jennifer Laird et al., Columbia Population Research Center, *Foregoing Food Assistance Out of Fear Changes to “Public Charge” Rule May Put 500,000 More U.S. Citizen Children at Risk of Moving into Poverty* (2018),

attendance and applications, reduced participation from immigrant parents in classrooms and at events, and there was an uptick in missed appointments at health clinics.⁹ In a 2018 survey of health care providers in California, more than two-thirds (67 percent) noted an increase in parents' concerns about enrolling their children in Medi-Cal (California's Medicaid program) and CalFresh (California's SNAP program), and reflecting the same trend at the national level, nearly half (42 percent) reported an increase in skipped scheduled health care appointments.¹⁰

The proposed rule only furthers the demonization of public benefits and will result in a “chilling effect” that will cause even more families to withdraw from or not seek a wide variety of necessary benefits. This result has already begun to come to fruition after draft versions of the proposed rule were leaked to the press earlier in 2018.¹¹ The chilling effect would extend far beyond any individual who may be subject to the “public charge” determination, harming entire families, their communities, and the infrastructure that serves all of us, such as schools, hospitals and clinics.

Researchers report that immigrants' use of health, nutrition, and social services could decline even more if the proposed public charge rule is finalized.¹² Approximately 25.9 million people, or about 8 percent of the U.S. population, would potentially be impacted.¹³ This includes individuals and family members with at least one noncitizen in their household and households with incomes under 250 percent of the Federal Poverty Line. When one family member fails to receive healthcare, housing, or nutrition benefits, the resources available to all family members, including children, decline.

Of the 25.9 million people impacted, approximately 9.2 million are children under 18 years of age, representing 13 percent of the children in the United States.¹⁴ The proposed rule, moreover, would have a disproportionate impact on people of color. People of color account for approximately 36 percent of the total U.S. population, and of the 25.9 million people who would potentially be impacted by the proposed rule, approximately 90 percent are people from communities of color (23.2 million), a disproportionate impact of nearly 3 to 1.

<https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5af1a2b28a922db742154bbe/1525785266892/Poverty+and+Social+Policy+Brief+2+2.pdf>.

⁹ Hannah Matthews et al., The Center for Law and Social Policy, *Immigration Policy's Harmful Impacts on Early Care and Education* (2018), https://www.clasp.org/sites/default/files/publications/2018/03/2018_harmfulimpactsece.pdf

¹⁰ The Children's Partnership, *California Children in Immigrant Families: The Health Provider Perspective*, <https://www.childrenspartnership.org/wp-content/uploads/2018/03/Provider-Survey-Infographic-.pdf> (last accessed Nov. 12, 2018).

¹¹ Leaked versions of drafts of the public charge expansion rule earlier in the year have had a demonstrable chilling effect on immigrants' use of WIC benefits, for example, resulting in vulnerable women and children foregoing essential nutrition assistance. See, e.g., Helena Bottemiller Ulrich, Politico, *Immigrants, Fearing Trump Crackdown, Drop Out of Nutrition Programs* (Sept. 3, 2018), <https://www.politico.com/story/2018/09/03/immigrants-nutrition-food-trump-crackdown-806292>.

¹² Jeanne Batalova, Michael Fix, & Mark Greenberg, Migration Policy Institute, *Chilling Effects: The Expected Public Charge Rule and Its Impact on Legal Immigrant Families' Public Benefits Use* (2018), <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>.

¹³ This number represents individuals and family members with at least one non-citizen in the household and who live in households with earned incomes under 250 percent of the federal poverty level. Custom Tabulation by Manatt Phelps & Philips LLP, *Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard* (2018), <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population> (using 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 2012-2016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center (MCDC) MABLE PUMA-County Crosswalk).

¹⁴ *Id.*

The proposed rule would harm immigrants in precarious economic circumstances as well as their families by discouraging them from using programs they are eligible to use, and preventing access to essential health care, nutritious food and secure housing. It would increase poverty and hunger while harming health and housing stability by discouraging enrollment in programs that have profound consequences for families' well-being and long-term success.

Children thrive when their parents can access needed health care, and when their families have enough to eat and have a roof over their heads. As compared to children without health insurance, children enrolled in Medicaid in their early years have better health, educational, and employment outcomes not only in childhood but as adults.¹⁵ Children whose families receive housing assistance are more likely to have a healthy weight and to rate higher on measures of well-being—especially when housing assistance is accompanied by food assistance.¹⁶ Children of immigrants who participate in SNAP are more likely to be in good or excellent health, be food secure, and reside in stable housing.

Conversely, the impact of the loss of critical food, health care, and housing assistances falls particularly hard upon the children in a family. Children in immigrant families are already more likely to face certain hardships and are already less likely to secure help, due in part to complex eligibility rules that create barriers for immigrant families.¹⁷ Research shows that not having the essentials of food, shelter, and health care can have life-long, irreparable negative impacts on developing children.¹⁸ In addition, the constant stress of struggling to access basic needs can be toxic to young brains and bodies.¹⁹ Moreover, parents' stress and consequent health challenges impede effective caregiving and can undermine children's development.

Immigrant families are already facing considerable mental stress. A Kaiser Family Foundation report shows that immigrant families, including those with lawful status, are experiencing significant levels of fear and uncertainty, particularly individuals from the Latinx and Muslim communities. The report also shows that such fear has a direct impact on the health and well-being of children and is likely to

¹⁵ Rourke O'Brien & Cassandra Robertson, University of Wisconsin—Madison, Institute for Research on Poverty, *Medicaid and Intergenerational Economic Mobility* (2015), <https://search.library.wisc.edu/catalog/9910223409002121>; Andrew Goodman-Bacon, NBER Working Paper No. 22899, *The Long-Run Effects of Childhood Insurance Coverage: Medicaid Implementation, Adult Health, and Labor Market Outcomes*, (2016), www.nber.org/papers/w22899.

¹⁶ Kathryn Bailey et al., Children's HealthWatch, *Overcrowding and Frequent Moves Undermine Children's Health* (2011), www.issuelab.org/resources/13900/13900.pdf.

¹⁷ Tanya Broder, Avidah Moussavian, & Jonathan Blazer, National Immigration Law Center, *Overview of Immigrant Eligibility for Federal Programs* (2015), <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>; Kinsey Alden Dinan, National Center for Children in Poverty, *Federal Policies Restrict Immigrant Children's Access to Key Public Benefits*, (2005), http://www.nccp.org/publications/pdf/text_638.pdf.

¹⁸ See, e.g., Food Res. Action Ctr., *The Impact of Poverty, Food Insecurity, and Poor Nutrition of Health and Well-Being* (2017), <http://frac.org/wp-content/uploads/hunger-health-impact-poverty-food-insecurity-health-well-being.pdf>; Kate Marcal & Patrick J. Fowler, Center for Social Development, *Housing and Child Well-Being* (2015), <https://csd.wustl.edu/Publications/Documents/RB15-40.pdf>; David Murphey, Child Trends, *Health Insurance Coverage Improves Child Well-Being* (May 12, 2017), <https://www.childtrends.org/publications/health-insurance-coverage-improves-child-well-being>.

¹⁹ See, e.g., Priyanka Boghani, Frontline, *How Poverty Can Follow Children Into Adulthood* (Nov. 22, 2017), <https://www.pbs.org/wgbh/frontline/article/how-poverty-can-follow-children-into-adulthood/>.

have lifelong consequences.²⁰ The impact on Latinx children would be particularly widespread, because 52 percent of Latinx children have at least one immigrant parent.²¹

The proposed rule would destabilize the lives and undermine the well-being of countless families across the United States. The strength of the country's future workforce and economy would also be jeopardized by the long-term impacts of the proposed rule upon children in these families. Forcing parents to choose between remaining with or reuniting their family and accessing critical benefits is short-sighted and yet another form of government-induced family separation.

3) The proposed rule harms women and families' health.

The proposed rule's unprecedented consideration of Medicaid as part of the public charge determination poses a serious threat to the health of immigrant women as well as their families. Medicaid is a critically important program for women and their families, responsible for meeting most of women's health needs throughout their lives.²² Yet, under the proposed rule, immigrant women who are eligible for Medicaid²³ and to whom the proposed rule would apply²⁴ face having their use of Medicaid counted against them. This puts them in the untenable position of having to decide between critical health coverage that keeps them healthy and able to care for their families and being able to become a lawful permanent resident. Not only is the woman herself affected, but her children and other family members are as well. According to the Kaiser Family Foundation, an estimated 2.1 million to 4.9 million Medicaid/CHIP enrollees could disenroll if the proposed rule is finalized.²⁵

Losing, disenrolling, or avoiding Medicaid coverage would put women's health at risk as well as the health of their families. Without affordable health coverage, women will not get the health care they need. Women who have health coverage are more likely to receive preventive care, such as breast cancer and cervical cancer screenings.²⁶ People with health insurance also have lower mortality

²⁰ Samantha Artiga & Petry Ubri, Kaiser Family Foundation, *Living in an Immigrant Family in America: How Fear and Toxic Stress are Affecting Daily Life, Well-Being, & Health*, (2017), <https://www.kff.org/disparities-policy/issue-brief/living-in-an-immigrant-family-in-america-how-fear-and-toxic-stress-are-affecting-daily-life-well-being-health/>.

²¹ Richard Fry and Jeffrey S. Passel, Pew Research Center, *Latino Children: A Majority Are U.S.-Born Offspring of Immigrants* (2009), <http://www.pewhispanic.org/2009/05/28/latino-children-a-majority-are-us-born-offspring-of-immigrants/>.

²² Although Medicaid covers a range of services women need, it is important to note that federal law restricts federal Medicaid coverage of abortion except if the pregnancy is the result of rape or incest, or if the woman's life is in danger. *See, e.g.*, Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 202, 129 Stat. 2242, 2311 (2015).

²³ With certain, limited exceptions, immigrants are barred from obtaining Medicaid for five years after they obtain "qualified" status. This means, for example, that an immigrant must wait five years after becoming a lawful permanent resident before they are eligible to receive Medicaid benefits.

²⁴ Immigrants for whom the proposed rule would apply, and who are also eligible for Medicaid, include people who have been granted withholding of deportation, such as those eligible for DACA. Also included are people with protected statuses, such as asylees, who then decide to apply for a lawful permanent resident status through a quicker option, such as becoming engaged to a U.S. citizen.

²⁵ Calculated assuming disenrollment rates between 15 percent and 35 percent. Samantha Artiga, Raphael Garfield, & Anthony Damico, Kaiser Family Foundation, *Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid* (2018), <https://www.kff.org/disparities-policy/issue-brief/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid/>.

²⁶ Munira Z. Gunja et al., The Commonwealth Fund, *Women Gain Insurance and Improved Their Ability to Get Health Care* (2017), <https://www.commonwealthfund.org/publications/issue-briefs/2017/aug/how-affordable-care-act-has-helped-women-gain-insurance-and>.

rates.²⁷ When people do not have health coverage, they are more likely to forego needed care, leading to declining health outcomes.²⁸ Half of uninsured women reported going without health care in 2016 because of cost, compared to 25% of women with Medicaid and 21% of women with private health insurance.²⁹ Cost poses a particular barrier for women of color; in 2016, Latinx and Black women were more likely than white women to say that cost kept them from seeing a doctor.³⁰ Already, immigrant women are less likely to be insured than their citizen counterparts. Twenty-seven percent of noncitizen immigrant women are uninsured, compared 11 percent for women overall.³¹ Women of reproductive age fare even worse: while 34 percent of noncitizen women of reproductive age are uninsured, nine percent of citizen women of reproductive age are uninsured. The gap widens further for poor immigrant women: nearly half (48 percent) of noncitizen women of reproductive age living in poverty are uninsured, while 16 percent of citizen women of reproductive age living in poverty are without coverage.³² The proposed rule would only make the situation worse, leading to poor health for immigrant women and their families.

Moreover, even though this proposed rule would not punish those who seek health care services that are unconnected to Medicaid – such as free or subsidized care at health centers – some immigrant women may avoid that care for fear of risking their future status. This would exacerbate existing inequalities. Latinx, Black, and Asian women in the United States are already less likely to have a personal doctor than white women.³³ And when women do not access medical care, including preventive reproductive health care, easily treatable illnesses or medical conditions can escalate, leading to worsening of existing conditions, lengthening of illness, and even disability or death.³⁴

²⁷ Steffie Woolhandler & David U. Himmelstein, *Annals of Internal Medicine*, *The Relationship of Health Insurance and Mortality: Is Lack of Insurance Deadly* (2017), <http://annals.org/aim/fullarticle/2635326/relationship-health-insurance-mortality-lack-insurance-deadly>.

²⁸ Committee on the Consequences, Board on Health Services, Institute of Medicine, *Care Without Coverage: Too Little, Too Late* (2002).

²⁹ Usha Ranji et al., Kaiser Family Foundation, *Overview: 2017 Kaiser Women's Health Survey* (2018), <https://www.kff.org/report-section/executive-summary-2017-kaiser-womens-health-survey/>.

³⁰ Kaiser Family Foundation, *Percent of Adult Women Who Did Not See a Doctor in the Past 12 Months Due to Cost*, <https://www.kff.org/womens-health-policy/state-indicator/percent-of-adult-women-who-did-not-see-a-doctor-in-the-past-12-months-due-to-cost-by-raceethnicity/?currentTimeframe=0&selectedDistributions=all-women&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last accessed Oct. 18, 2018).

³¹ Kaiser Family Foundation, *Women's Health Insurance Coverage*, <https://www.kff.org/womens-health-policy/fact-sheet/womens-health-insurance-coverage-fact-sheet/>.

³² Guttmacher Institute, *Dramatic Gains in Insurance Coverage for Women of Reproductive Age Are Now in Jeopardy* (2018), <https://www.guttmacher.org/article/2018/01/dramatic-gains-insurance-coverage-women-reproductive-age-are-now-jeopardy>.

³³ Kaiser Family Foundation, *Percent of Women Who Report Having No Personal Doctor*, <https://www.kff.org/disparities-policy/state-indicator/no-personal-doctor/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

³⁴ Steffie Woolhandler & David U. Himmelstein, *Annals of Internal Medicine*, *The Relationship of Health Insurance and Mortality: Is Lack of Insurance Deadly* (2017), <http://annals.org/aim/fullarticle/2635326/relationship-health-insurance-mortality-lack-insurance-deadly>; Rachel West, Center for American Progress, *Expanding Medicaid in All States Would Save 14,000 Lives Per Year* (2018); Committee on the Consequences, Board on Health Services, Institute of Medicine, *Care Without Coverage: Too Little, Too Late* (2002); Adam Sonfield, Guttmacher Policy Review, *Beyond Contraception: The Overlooked Reproductive Health Benefits of Health Reform's Preventive Services Requirement*, (2012) <https://www.guttmacher.org/gpr/2012/10/beyond-contraception-overlooked-reproductive-health-benefits-health-reforms-preventive>.

More specifically, this proposed rule may discourage women from obtaining prenatal care, which has ramifications not only for their health and their pregnancies, but also for birth outcomes.³⁵ Lack of adequate health care, including prenatal care, contributes to higher rates of maternal mortality, higher rates of infant mortality, and increased risk of low-infant birth weight.³⁶ This is particularly dangerous for Black women, who already experience disproportionately high rates of maternal mortality, in part due to existing barriers to health care and systemic inequalities.³⁷ Similarly, the proposed rule may also discourage women from seeking postpartum care, which is crucial to the health and well-being of mothers, newborns, and families.³⁸ Foregoing postpartum care could mean that women endure postpartum depression without proper medical, social, and psychological care, skip doctor's visits that address infant feeding, nutrition, physical activity and family planning, or leave other postpartum health issues unaddressed.

Every woman should have access to reliable health information, including affordable health care such as the Medicaid and Medi-Cal programs. When women are able to make choices about their health, they are empowered to make the best decisions to maintain and improve their health at all stages of their lives and for their children and families as well. No woman or child should be denied the ability to access basic level health care based on their immigration status.

4) The proposed rule undermines women's employment.

The proposed rule ignores the positive impact of public benefits in facilitating economic self-sufficiency. Research shows that there are long-term positive effects associated with receipt of many of the benefits that are included in the public charge determination, including SNAP and Medicaid. In particular, the use of these benefits often enables workers, especially low-wage workers, to remain employed.³⁹ This is because it is very difficult for women working in such jobs to support themselves and their families on their wages alone. Discouraging the receipt of these benefits would be especially problematic for working women whose employment may already be destabilized by discrimination, harassment, domestic violence, or caregiving responsibilities – in other words, for women with low incomes, women of color, and LGBTQ women.

³⁵ Megan M. Shellinger, et al., Maternal and Child Health Journal, *Improved Outcomes for Hispanic Women with Gestational Diabetes Using the Centering Pregnancy Group Prenatal Care Model* (2016), <https://link.springer.com/article/10.1007/s10995-016-2114-x>.

³⁶ Jacques Balayla & Haim Arie Abenheim, American Journal of Perinatology, *Inadequate Prenatal Care Utilization and Risks of Infant Mortality and Poor Birth Outcome: A Retrospective Analysis of 28,729,765 U.S. Deliveries over 8 Years* (2012), https://www.researchgate.net/profile/Jacques_Balayla2/publication/230573498_Inadequate_Prenatal_Care_Utilization_and_Risks_of_Infant_Mortality_and_Poor_Birth_Outcome_A_Retrospective_Analysis_of_28729765_US_Deliveries_over_8_Years/links/0deec526dabeb49c3f000000/Inadequate-Prenatal-Care-Utilization-and-Risks-of-Infant-Mortality-and-Poor-Birth-Outcome-A-Retrospective-Analysis-of-28-729-765-US-Deliveries-over-8-Years.pdf.

³⁷ National Partnership for Women and Families, *Black Women's Maternal Health: A Multifaceted Approach to Addressing Persistent and Dire Health Disparities* (2018), <http://www.nationalpartnership.org/research-library/maternal-health/black-womens-maternal-health-issue-brief.pdf>.

³⁸ The American College of Obstetricians and Gynecologists, *Ob-Gyns Stress the Importance of Postpartum Care: The Fourth Trimester* (2016), <https://www.acog.org/About-ACOG/News-Room/News-Releases/2016/Ob-Gyns-Stress-the-Importance-of-Postpartum-Care-The-Fourth-Trimester?IsMobileSet=false>.

³⁹ See, e.g., Matthew Desmond & Carl Gershenson, Social Problems, *Housing and Employment Insecurity among the Working Poor* (2016), <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>; Nat'l Women's Law Ctr., *Medicaid Is Vital for Women's Jobs in Every Community* (2017), <https://nwlc.org/resources/medicaid-is-vital-for-womens-jobs-in-every-community/>; Ctr. on Budget & Pol'y Priorities, *Chart Book: The Far-Reaching Benefits of the Affordable Care Act's Medicaid Expansion* (2018), <https://www.cbpp.org/research/health/chart-book-the-far-reaching-benefits-of-the-affordable-care-acts-medicaid>.

CWLC knows that economic stability is vital to equality. Women comprise half the workforce in California and are the primary income earners for many families. Despite that, many women are forced into minimum wage or part-time jobs that stifle their earning capacity. Access to public benefits is essential to ensure that low-income women in California are able to remain employed and provide for themselves and their families.

Thus, the proposed rule's counting SNAP, non-emergency Medicaid, and housing assistance against women for the purposes of their immigration status may actually make it more difficult for immigrant women to be self-sufficient.

5) **The proposed rule harms survivors of domestic violence and sexual assault**

Domestic and sexual violence is widespread in our communities – with one in three women and one in six men experiencing some form of sexual violence in a lifetime⁴⁰ and more than 12 million men and women experiencing rape, physical violence, or stalking by an intimate partner each year in the United States.⁴¹

a) **The proposed rule discourages survivors from seeking or utilizing safety net benefits that are crucial to their ability to escape or recover from abuse and trauma.**

The proposed rule greatly expands the range of public assistance programs that will now count against an individual in determining whether they are a public charge. These programs are crucial to victims to escape abuse and meet their basic needs. While sexual violence occurs in all socioeconomic groups, low-income women suffer most because such abuse often causes a victim to fall into poverty. Financial barriers can also prevent victims from leaving abusive relationships. The Centers for Disease Control has concluded that improving financial security helps reduce and prevent intimate partner violence.⁴² Access to economic security programs and other safety net benefits thus plays a pivotal role in a victim's ability to overcome sexual violence, assisting victims to afford the basics such as food, housing, and healthcare and rebuild their lives after experiencing violence.

Similarly, access to health care provides a critical lifeline for survivors in order to treat the health consequences of abuse including: acute injury, chronic pain, sexually transmitted infections, gastrointestinal problems, diabetes, hypertension, and traumatic brain injury, among others. Annual data from the Behavioral Risk Factor Surveillance Survey (BRFSS), the largest U.S. nationally representative phone survey about general health behaviors and conditions, highlights the increased risk of chronic conditions such as asthma, arthritis, stroke, and cardiovascular disease in individuals who have ever experienced partner violence.⁴³ A study by the Centers for Disease Control and

⁴⁰ Centers for Disease Control and Prevention. (2017). The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report. Available at: <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>

⁴¹ Centers for Disease Control and Prevention. (2011). Sexual Violence, Stalking, and Intimate Partner Violence Widespread in the US. Available at: https://www.cdc.gov/media/releases/2011/p1214_sexual_violence.html

⁴² Centers for Disease Control (2017). Preventing Intimate Partner Violence Across the Lifespan: A Technical Package of Programs, Policies, and Practices. Available at <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>

⁴³ Breiding MJ, Black MC, Ryan GW. Chronic disease and health risk behaviors associated with intimate partner violence-18 U.S. states/territories, 2005. *Ann Epidemiol* 2008;18:538-44.

Prevention (CDC) found that more than 550,000 injuries due to intimate partner violence require medical attention each year.⁴⁴

Service providers report that Medicaid is valuable to the recovery of survivors as health care is a benefit many survivors cannot afford, even though 76% of providers report that health care assistance consistently helps the survivors with whom they work. New CDC data found the lifetime per-victim cost of intimate partner violence was \$103,767 for women victims with 59% going to medical costs.⁴⁵ Public funding paid 37% of this total cost. Medicaid coverage helps survivors access care: for trauma care specifically, Kaiser Family Foundation found that Medicaid provided increased coverage for individuals with traumatic injuries for acute and post-acute care and prevented unexpected medical bills.⁴⁶ Survivors also need health, mental and behavioral health services because of increased risk for suicide, depression, anxiety, posttraumatic stress disorder, and substance abuse. Ensuring survivors have prompt access to necessary care improves their health and well-being for the rest of their lives.

In addition, for many survivors, cash assistance such as Temporary Assistance for Needy Families or state-funded cash benefits, provides crucial support they need to begin the journey of re-stabilizing their lives and achieving self-sufficiency. In a 2017 survey of service providers working with victims of sexual violence, nearly 85% of respondents said that TANF is a very critical resource. Specifically, more than two-thirds of respondents said that most domestic violence victims rely on TANF to help address their basic needs and to establish safety and stability, and 45% of respondents said the same is true of most sexual assault victims.⁴⁷ With financial instability posing limited options for escaping or recovering from abuse, access to cash assistance is an important factor in victims' decision-making about whether and how they can afford to leave a dangerous situation, and in planning how to keep themselves and their children healthy, healthy, and housed.⁴⁸

The proposed rule undermines federal and state policies to support victims by discouraging them from accessing critical services and exacerbates the harm by keeping survivors trapped in abusive situations. Without sufficient resources, victims are either compelled back into an abusive relationship, or face destitution and homelessness.⁴⁹

⁴⁴ Centers for Disease Control and Prevention. (2003). Costs of Intimate Partner Violence Against Women in the United States. Available at: <https://www.cdc.gov/violenceprevention/pdf/IPVBook-a.pdf>

⁴⁵ [Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults.](#)

Peterson C, Kearns MC, McIntosh WL, Estefan LF, Nicolaidis C, McCollister KE, Gordon A, Florence C. *Am J Prev Med.* 2018 Oct;55(4):433-444. doi: 10.1016/j.amepre.2018.04.049. Epub 2018 Aug 22.

⁴⁶ Shaina Goodman, National Resource Center on Domestic Violence, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims' Economic Security* (2018), at 11 <https://vawnet.org/material/difference-between-surviving-and-not-surviving-public-benefits-programs-and-domestic-and->

⁴⁷ *Id.* at 13.

⁴⁸ Lyon, E., Lane, S., & Menard, A. (2008). Meeting Survivors' needs: A multi-state study of domestic violence shelter experiences. Washington, DC: National Institute of Justice. At:

http://www.vawnet.org/Assoc_Files_VAWnet/MeetingSurvivorsNeeds-FullReport.pdf;

Lyon, E., Bradshaw, J., & Menard, A. (2011). *Meeting Survivors' Needs through Non-Residential Domestic Violence Services & Supports: Results of a Multi-State Study.* Harrisburg, PA: National Resource Center on Domestic Violence. At: http://www.vawnet.org/Assoc_Files_VAWnet/DVServicesStudy-FINALReport2011.pdf;

Kimerling, R., Alvarez, J., Pavao, J., Mack, K. P., Smith, M. W., & Baumrind, N. (2009). *Unemployment Among Women: Examining the Relationship of Physical and Psychological Intimate Partner Violence and Posttraumatic Stress Disorder.* *Journal of Interpersonal Violence*, Vol. 24, No. 3, at 450-463.

⁴⁹ See Eleanor Lyon, *Poverty, Welfare and Battered Women: What Does the Research Tell Us?* National Electronic Network on Violence Against Women 1 (Dec. 1997).

b) The proposed rule isolates survivors of domestic violence and sexual assault from their families.

Domestic violence abusers and sexual assault perpetrators cause significant physical, emotional, and often, financial injury to their victims, which increases the likelihood they will be considered a public charge. Many abusive partners, in order to dominate or control their partners and their children, prevent or sabotage their partners from attaining economic independence or stability by limiting their access to financial resources, interfering with employment, ruining credit, and more.⁵⁰ Victims who might not have previously been considered low income may experience financial abuse; become impoverished due to the abuse; or abuse may have undermined the victim's ability to work, maintain housing, health, or otherwise obtain financial security.⁵¹

The public charge rule will isolate survivors from their families and vital systems of support. Family members serve as one of the main sources of support for survivors, and the presence of a strong support system can be vital to a survivor's ability to disclose, escape, and heal from the trauma of domestic violence, sexual assault, and other gender-based abuses. Survivors stress that having family in their lives is essential to their recovery, providing survivors with the affirmation, encouragement, stability, and resources they need to grow and move forward.⁵² The public charge rule threatens to isolate victims from their families and support system if they access critical economic, health, housing, and other programs to escape or heal from violence. Survivors will be forced to choose between reuniting with loved ones and using benefits available to them – both of which are necessary to weather tough times. This will only serve to undermine or prolong a survivor's recovery process.

6) The proposed rule harms women's ability to access housing.

Lack of affordable housing is unquestionably a women's issue. Women live in poverty at higher rates than men. In 2013, 14.5 percent of adult women lived in poverty, compared to 11 percent of adult men. Almost 60 percent of poor children lived in households headed by women.⁵³ Housing discrimination is also a barrier to women, especially mothers with children.⁵⁴ Approximately 63 percent of homeless women have experienced domestic violence at some point in their adult lives.⁵⁵ Domestic violence victims may lose their homes in an effort to escape injury or death or may be evicted for inability to pay rent in favor of other necessities such as putting food on the table or providing child care.

Housing assistance gives sexual assault survivors security to leave the abuse without fear that doing so will result in homelessness. One of the greatest needs identified by survivors of sexual violence is affordable housing. In a single day, domestic violence programs across the United States received but

⁵⁰ See, e.g., Postmus, J. L., Plummer, S. B., McMahon, S., Murshid, N. S., & and Mi Sung Kim, M. S.(2012). Understanding economic abuse in the lives of survivors. *Journal of Interpersonal Violence*, 27(3),411–430., Adams, A, Sullivan,C, Bybee, D, & Greeson, M. (2008), Development of the scale of economic abuse. *Violence Against Women*, 13, 563-588.

⁵¹ See, e.g., Eleanor Lyon, *Welfare, Poverty and Abused Women: New Research and its Implications*, National Resource Center on Domestic Violence (Oct. 2000), available at <https://vawnet.org/material/welfare-poverty-and-abused-women-new-research-and-its-implications>;

⁵² Anderson, K.M., Renner, L.M., Danis, F.S. (2012). Recovery: Resilience and Growth in the Aftermath of Domestic Violence. *Violence Against Women*, 18(11), 1279-1299. DOI: 10.1177/1077801212470543.

⁵³ Joan Entmacher, et al., *Insecure & Unequal Poverty and Income Among Women and Families 2000-2013*, National Women's Law Center, p.1 September 29, 2014.)

⁵⁴ Gail Quets, et al., *A Gender Lens on Affordable Housing*, re:gender, p.8 January 2016.

⁵⁵ *Id.* at 8.

were unable to meet nearly 7,500 requests for housing services.⁵⁶ The proposed rule would create a disincentive for women and survivors to seek housing assistance through Section 8 or other public benefits housing assistance.

The inability to find and maintain affordable housing puts survivors at extreme risk of homelessness. Between 22 and 57 percent of all homeless women report that domestic violence was the immediate cause of their homelessness,⁵⁷ and victim service providers, advocates, and allies across the United States report that survivors became homeless as a result of sexual violence.⁵⁸ Sexual assault survivors may be forced to leave their housing and/or employment as a result of the violence, and in turn become even more at risk to experience more sexual violence as a result.⁵⁹ Without housing, sexual assault victims report that other services to address the violence were not likely to be helpful.⁶⁰ For many survivors, the decision to leave abuse hinges on the question, “But where would I go?” Housing assistance provides the answer and creates a pathway to safety.

For all of the foregoing reasons, DHS should immediately withdraw the proposed rule. The proposed rule unfairly and disproportionately harms women and specifically impacts survivors of sexual violence.

Thank you for the opportunity to submit comments on the Notice of Proposed Rulemaking on Public Charge Grounds. You may contact me anytime at betsy.butler@cwlc.org or (323) 951-1041.

Sincerely,

Betsy Butler



Executive Director
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⁵⁶ National Network to End Domestic Violence. 2018. Domestic Violence Counts: 12th Annual Census Report. Available at <https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/>.

⁵⁷ Wilder Research Center, Homelessness in Minnesota 2003 22 (2004); Center for Impact Research, Pathways to and from Homelessness: Women and Children in Chicago Shelters 3 (2004); Nat’l Center on Family Homelessness & Health Care for the Homeless Clinicians’ Network, Social Supports for Homeless Mothers, 14 26 (2003); Inst. For Children & Poverty, The Hidden Migration: Why New York City Shelters Are Overflowing with Families (2004); Homes for the Homeless & Inst. For Children & Poverty, Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America 3 (1998); Virginia Coalition for the Homeless, 1995 Shelter Provider Survey (1995) (out of print), cited in Nat’l Coalition for the Homeless, Domestic Violence and Homelessness: NCH Fact Sheet #8 (1999).

⁵⁸ National Sexual Violence Resource Center. 2010. Housing and Sexual Violence: Overview of national survey: January 2010. Available at http://www.nsvrc.org/sites/default/files/NSVRC_Publications_Reports_Housing-and-sexual-violence-overview-of-national-survey.pdf

⁵⁹ See, e.g., Loya, R. M. (2014) Rape as an economic crime: The impact of sexual violence on survivor’s employment and economic well-being. *Journal of Interpersonal Violence*, 30 (16), 2793-2813. doi:10.1177/0886260514554291

⁶⁰ See, e.g., Logan, TK, Evans, L., Stevenson, E., & Jordan C. E. (2005). Barriers to services for rural and urban survivors of rape. *Journal of Interpersonal Violence*, 20, 591-616. doi:10.1177/0886260504272899