



December 10, 2018

Kirstjen M. Nielsen
Secretary
Department of Homeland Security
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

RE: DHS Docket No. USCIS–2010–0012; Inadmissibility on Public Charge Grounds
Submitted electronically via <http://www.regulations.gov>

Dear Secretary Nielsen,

Trinity Health appreciates the opportunity to comment on the U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security's (DHS) proposed regulation set forth in DHS Docket No. USCIS–2010–0012, titled *Inadmissibility on Public Charge Grounds*. Trinity Health is committed to public policies that support better health, better care and lower costs to ensure affordable, high quality, and people-centered care for all. As such, Trinity Health has significant concerns with this proposed rule and strongly urges DHS not to finalize this proposal.

Trinity Health is a national Catholic health care delivery system with a steadfast mission to be a transforming and healing presence within our communities. Trinity Health includes 94 hospitals as well as 109 continuing care locations that include PACE, senior living facilities, and home care and hospice services. Committed to those who are poor and underserved, Trinity Health returns \$1.1 billion to our communities annually in the form of charity care and other community benefit programs. We have 35 teaching hospitals with graduate medical education (GME) programs providing training for more than 2,000 residents and fellows in 184 specialty and subspecialty programs. We employ approximately 133,000 colleagues, including more than 7,800 employed physicians and clinicians, and have more than 15,000 physicians and advanced practice professionals committed to 23 Clinically Integrated Networks (CINs) that are accountable for approximately 1.5 million lives across the country through alternative payment models (APMs).

The proposed DHS regulation would redefine criteria for determining an individual's status as—or likelihood to become—a public charge for purposes of gaining admission into the United States, of obtaining citizenship, or of modifying their immigration status. Under Section 212(a)(4) of the Immigration and Nationality Act, an individual either seeking to gain admission to the United States or adjust his or her immigration status may be denied admission or change in status if it is determined that he or she is—or is at risk of becoming—a public charge dependent on government assistance. Historically, the term “public charge” has only been used to apply to non-citizens who would rely on cash benefits for most of their income or require public assistance for long-term care. The use of non-cash benefits, such as publicly-funded health insurance, does not make one a public charge.

Under the proposed regulation, DHS would substantially expand the list of public benefits that would be considered in the public charge determinations to include Medicaid, Medicare Part D Low Income Subsidy, Supplemental Nutrition Assistance Program, Housing Assistance and Subsidized Housing. The proposal would also expand the list of populations to which the public charge determination applies to include individuals seeking to extend a current visa or change visa types (e.g. from student to employment visas). Lastly, the proposed rule would change the definition of public charge from being “primarily dependent” on public benefits to receipt of “one or more public benefits” and would apply greater weight to income and benefit use when making the public charge determination.

Trinity Health urges DHS to immediately rescind and not finalize the *Inadmissibility on Public Charge Grounds Proposed Rule*.

Trinity Health strongly opposes these proposed policy changes and expansions. The proposed policies are in direct conflict with Trinity Health's Catholic values and our mission of providing people-centered care for all patients, including immigrants, and being a transforming and healing presence within our communities. Such a change would result in a system that directly contradicts both our nation's history of offering refuge to the poor and oppressed as well as the commitment of Trinity Health to care for the most vulnerable while honoring the sacredness and dignity of every person. This proposal would impose harsh and punitive new rules on those legal immigrants seeking to better their lives in our nation and to become productive residents and citizens. The proposed regulation would have a detrimental effect on the health and wellness of individuals, the health and wellness of communities, and the economies of the communities we serve.

Health care coverage allows people to use the health care system more effectively and efficiently, leading to increased accountability, lower costs, a healthier population and a more vibrant economy. We believe that this proposal would reverse improvements our country has made to ensure healthier populations, improve preventative care, reduce health care disparities, and reduce health care costs. By limiting the ability of legal immigrants to extend their immigration status or gain full citizenship based on their receipt of public benefits, including Medicaid, children and adults across our country would be discouraged from receiving proper medical care in fear that participation in health insurance programs for which they are eligible would negatively impact their immigration status. We are also concerned about the "chilling effect" of the proposed policies on individuals to whom the policies do not apply, but who may forgo participation in programs as a result of confusion or fear. The effects of this proposed rule would be profoundly negative.

Specifically, Trinity Health is extremely concerned by the negative impact of the proposed policies on:

1. Coverage and care for legal immigrants and family members and the likely "chilling effect" of the proposed rule as people forego participation in programs that support their long-term self-sufficiency.
2. Public health and social determinants of health, including access to health insurance coverage, essential and preventive services and healthy food and housing.
3. Economic well-being of individuals and families, the health care system, states and our communities.

Below we outline in greater detail our concerns and recommendations.

The Proposed Policies Will Reduce Health Care Coverage for Vulnerable Populations, Including Legal Immigrants and Their Family Members

Trinity Health is concerned that legal immigrants and their citizen family members will forgo health care coverage—and use of other public benefits that support self-sufficiency—as a result of this proposed rule due to concerns, fears and confusion regarding the consequences of program participation. The "chilling effect" this will have on enrollment is significant as some individuals are likely to either dis-enroll or not re-enroll in coverage due to the potential implication it may have on their immigration status. Additionally, the broad discretion given to immigration officials to weigh various factors when they make a public charge determination will exacerbate this chilling effect beyond what we even know today. Across Trinity Health, in the last year, we have already seen legal immigrants in many of our communities that are fearful to enroll in health care coverage or seek health care at all out of concern for how their immigration status will be impacted.

DHS acknowledges this concern in the proposed rule, noting that individuals—including children and family members— will likely forego enrollment or disenroll from public benefits they are eligible for as

a result of the proposed policy.¹ However, in the proposed rule, DHS estimates disenrollment only among individuals who the Department projects are directly affected by the proposed rule and does not consider the broader application of the chilling effect. Instead, DHS assumes that (over a five-year period) 2.5 percent of the non-citizen population would seek to adjust their status and then assumes a 2.5 percent rate of disenrollment or forgone enrollment among non-citizens enrolled in impacted public benefit programs, concluding that approximately 324,000 people each year would likely dis-enroll or forgo enrollment in a public benefit program.

Based on recent research, Trinity Health disagrees with DHS' analysis and believes the chilling effect that these proposed policies will have on health care coverage are much broader and must be taken into consideration. Using calculations that assume only those applying to adjust status would drop coverage, DHS estimates that 142,136 individuals would disenroll or forgo enrollment in Medicaid annually. However, Kaiser Family Foundation estimates that the proposed rule could drive Medicaid disenrollment rates ranging from 15 percent to 35 percent for affected groups—which could result in 2.1 to 4.9 million individuals disenrolling from coverage based on 2014 data.² Further, a November 2018 analysis from Manatt, Phelps & Phillips, LLP found that an estimated 13.2 million Medicaid and CHIP enrollees could be impacted (based on 2016 numbers). This includes 4.4 million non-citizen adults and children who are enrolled in Medicaid or CHIP and 8.8 million citizen adults and children enrolled in Medicaid or CHIP who are the family members of a non-citizen. This analysis only accounts for those who actually receive coverage today, not all of those legal immigrants and family members who are currently eligible for, but not enrolled in Medicaid or CHIP.³ Research and analysis makes clear that these proposed policies will result in significantly reduced coverage for vulnerable people across our country, particularly children. Trinity Health's enrollment specialists confirm this research describing multiple instances where, already today, citizen adults and children—out of fear and confusion—are not renewing Medicaid or CHIP coverage when they are family members of a non-citizen, legal immigrant.

We believe that the proposal to expand the list of public benefits that DHS considers when it makes a determination about whether or not certain immigrants are likely at any time to become a public charge are in conflict with DHS' goal of promoting self-sufficiency. In fact, Medicaid coverage can play a large role in promoting an individual's movement towards self-sufficiency. For example, a study that examined the impact of expanded Medicaid coverage in Ohio found that 52 percent of employed enrollees reported that Medicaid coverage made it easier to continue working and 75 percent of those who were unemployed but looking for work reported that Medicaid coverage made it easier for them to seek employment.⁴

The Proposed Policies Will Have a Negative Impact on Public Health and Social Determinants of Health Including Access to Health Insurance Coverage, Essential and Preventive Services and Healthy Food and Housing

Research has shown that access to health coverage—and other programs impacting social determinants of health—can lead to positive health outcomes, increased self-sufficiency, and help to reduce use of higher-costs services. It is well-established that those who are uninsured experience poorer health outcomes, as well as a higher rate of mortality, when compared to their insured counterparts. Medicaid and CHIP play a key role in keeping both children and adults healthy and in addressing the needs of pregnant women, individuals with chronic illnesses, and people with disabilities.

¹ Department Of Homeland Security, [Inadmissibility On Public Charge Grounds, Notice Of Proposed Rulemaking](#), October 10, 2018.

² [Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid Samantha Artiga, Rachel Garfield, and Anthony Damico](#)

³ Manatt, Phelps & Phillips, LLP, Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule, November 2018

⁴ The Ohio Department of Medicaid, [Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly, 2017](#).

Research shows that adult Medicaid enrollees report better access to care compared to uninsured individuals, including a lower likelihood of delaying medical care. Additionally, studies have found that individuals with a usual source of care are less likely to use emergency department services and are more likely to seek preventative services, including immunizations, and engage in chronic disease management.

Specifically, a study examining the effects of Medicaid expansion in Oregon on access to care and health outcomes for newly enrolled individuals found that Medicaid enrollment was associated with an increase in perceived, improved access to care—including having a usual place of care—and an increase in utilization of preventive care and screening services.⁵ Similarly, an analysis of the impact of Medicaid expansion in Ohio found that 48 percent of new enrollees reported an improvement in overall health status, 64 percent reported improved access to care, and 34 percent reported fewer ED visits since enrolling in Medicaid. The same analysis also concluded that expansion enrollees reported—and a review of medical records confirmed—better management of health risk factors and chronic diseases.⁶

The poor health outcomes that will result from reduced access to health coverage and, as a result, decreased access to preventative care—including prenatal care and immunizations—and chronic care and disease management will be significant. Lack of access to coverage can exacerbate preventable and manageable chronic conditions. According to a recent study, rates of hypertension are significantly higher among the uninsured population compared to the insured. According to this study, in addition to disparities in health outcomes, benefits of obtaining health insurance include an improved perception of personal health, a lower likelihood of depression compared to those without health insurance and financial security.⁷

Trinity Health believes that the impact of the proposed policies on vulnerable populations will be significant—especially the impact on low-income women and children. A child's likelihood of future success is dependent upon his or her basic needs being met. Research shows there is a positive association between childhood Medicaid eligibility and educational attainment, reduced rates of emergency department visits over time, reduced disability, and reduced teenage mortality.⁸ As a result of the proposed policies, parents who might not be able to afford quality health care or who may require additional assistance to provide for their children may choose not to enroll them in important programs such as Medicaid due to fear of being determined—or likely to become—a public charge. Further, we are concerned that the proposed policies could impact a significant number of children. A recent analysis found that in 2016, 6.8 million citizen children with at least one noncitizen parent were enrolled in Medicaid/CHIP.⁹ Trinity Health is strongly opposed to policies that discourage access to necessary health care and supports that improve health outcomes, especially for women and children.

Further, Trinity Health is extremely concerned by the impact this proposal will have on legal immigrants' access to these important nutrition and housing programs. Housing and healthy food are two critically important social determinants of health. Access to healthy food and housing are significant community health and well-being priorities of Trinity Health recognizing that to improve the health of those communities we serve, we must address the profound impact of social determinants of health. As with the Medicaid and CHIP programs, the chilling effect of this proposal on housing and food availability will reach far beyond just those legal immigrants seeking to adjust

⁵ Baicker, K., Taubman, S., Allen, H., Bernstein, M., Gruber, J., & Newhouse, J. et al. (2013). [The Oregon Experiment — Effects of Medicaid on Clinical Outcomes](#). *New England Journal Of Medicine*, 368(18), 1713-1722.

⁶ The Ohio Department of Medicaid, [Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly, 2017](#).

⁷ Woolhandler S & Himmelstein DU. The Relationship of Health Insurance and Mortality: Is Lack of Insurance Deadly? *Ann Intern Med*. 2017;167(6):424-31.

⁸ Larisa Antonisse, Rudowitz, Robin, [Implications of the ACA Medicaid Expansion: A Look at the Data and Evidence](#), Kaiser Family Foundation, May 2018.

⁹ Kenney, G., Haley, J., & Wang, R. (2018). [Proposed Public Charge Rule Could Jeopardize Recent Coverage Gains among Citizen Children](#). Urban Institute.

status, and Trinity Health enrollment specialists are already seeing this fear and concern as well. Access to affordable, stable and quality housing is directly linked to improved health outcomes, and Trinity Health also believes that our nation has a moral obligation to ensure that food insecure people have enough nutritious food to eat.

Policies Will Result in Increased Costs and Burden on Individuals and Families, the Health Care System and States

In addition to the far-reaching effects on individual and community health, the related financial effects of the proposed regulation will be significant for individuals and families, as well as the overall health care ecosystem, and state and local partners.

First, as discussed above, Medicaid coverage can also improve financial self-sufficiency by reducing financial burden on individuals and households. For example, an analysis of the impact of Medicaid coverage expansion under the ACA between 2014 and 2016 that included two expansions and one non-expansion state found a correlation between Medicaid coverage expansion and a decline in difficulty paying medical bills. The study also found that previously uninsured individuals who gained coverage experienced a \$337 reduction in annual, out-of-pocket medical spending.¹⁰

More broadly, the effect of these proposed policies will be to reduce coverage, reduce access to preventative care, which will increase uncompensated care and other costs as a result—and shift costs to states and local partners. Adults who do not obtain health insurance—or who disenroll as a result of confusion or fear related to the proposed policies—are likely to rely on emergency department visits as opposed to receiving preventative care. This is likely to lead to the use of higher-cost, urgent care—as opposed to lower cost, preventive care. As a result, the cost to the health care system and to individuals forgoing necessary preventive care are likely to be substantial. The impact of foregoing prenatal care would result in significant increased costs and poor outcomes, as just one example.

The impact on hospitals is also expected to be significant. Hospitals provide a substantial share of the care delivered to Medicaid and CHIP enrollees. A recent analysis found that annual hospital payments at risk under this proposed rule total an estimated \$17 billion in 2016 (\$7 billion for noncitizen enrollees and \$10 billion for citizen enrollees who have a noncitizen family member).¹¹ This is especially significant for safety net providers. As uncompensated care costs rise, the investments hospitals can make in serving their entire communities are at risk.

In addition to the impact of the proposed policy on the health care system, it will likely have negative spill-over effects for state and local partners, which DHS acknowledges in the proposed rule. A recent review of the rule by the National Academy for State Health Policy identifies not only the increased uncompensated care costs states will likely face as a result of the chilling effect of the proposed rule, but also operational and administrative challenges that states may experience. These include churn as individuals move in and out Medicaid enrollment, increased volume of questions from Medicaid or other public health program enrollees resulting from confusion about the proposed rule, and burden related to potential requirements on states sharing data on enrollees participation in Medicaid.¹² Additionally, given that individuals would likely forgo enrollment in public benefits included in the proposed expanded list, it is likely that state and local partners would see increased reliance—and spending—on other, available services and supports.

¹⁰ Sommers, B., et al., "[Three-Year Impacts Of The Affordable Care Act: Improved Medical Care And Health Among Low-Income Adults.](#)" *Health Affairs*, 2017.

¹¹ Manatt, Phelps & Phillips, LLP, *Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule*, November 2018

¹² Cardwell, Anita; Hensley-Quinn, Maureen, [State Health Officials Concerned about the Proposed Public Charge Rule](#), NASHP, November 20, 2018

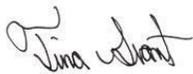
Finally, the proposed policy will also likely have spillover effects on the health care workforce and US workforce more broadly that we encourage DHS to consider. Specifically, our country risks losing promising immigrant workers, including health care workers, who are contributing to our economy today. Immigrants today play a crucial role in our country's workforce. At least 17 percent of the health care workforce is foreign-born.¹³ Additionally, other industries are also dependent on immigrants. For example, immigrants comprise with nearly one quarter of workers in the construction industry. We ask that DSH consider the labor market impacts of these proposed policies.

Conclusion

Trinity Health strongly urges the Administration to immediately rescind its public charge proposal. As a large, mission-driven, multi-state health system serving diverse communities, we know that implementation of the proposed regulation would be detrimental to Trinity Health's mission, to our patients, our communities and our country. The proposed regulation has a moral and economic effect on Trinity Health, and the health care system across the country. Driven by our commitment to serve in the spirit of the Good Samaritan, one who shows mercy to all regardless of origin of country or level of need, we call on DHS to abandon this proposal that defines the health needs of legal immigrants differently than we do all neighbors.

Trinity Health thanks DHS for the opportunity to comment on this proposed regulation and intend for our comments and recommendations to reflect our strong interest in public policies that support better health, better care and lower costs to ensure affordable, high quality, and people-centered care for all. We look forward to working with you to advance these goals. If you have questions on our comments, please feel free to contact me at granttw@trinity-health.org or 734-343-1375.

Sincerely,



Tina Weatherwax Grant, JD
Vice President, Public Policy and Advocacy
Trinity Health

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Alex Azar, Secretary, Department of Health and Human Services

¹³ Altorjai Szilvia, Batalova, Jeanne; [Migration Policy Institute, Immigrant Health-care Workers in the United States, June 28, 2017](#)