



1300 17TH STREET NORTH, SUITE 340, ARLINGTON, VA 22209

TEL (202) 682-0100

FAX (202) 204-0071

WWW.APHSA.ORG

United States Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Residence and Naturalization Division, Office of Policy & Strategy

April 25, 2022

Re: Notice of Proposed Rulemaking – Public Charge Grounds of Inadmissibility

Dear Secretary Mayorkas,

The American Public Human Services Association (APHSA), a bipartisan nonprofit membership association representing state and local health and human service agencies through their top-level leadership, is pleased to submit this comment letter in response to the Notice of Proposed Rulemaking (NPRM) 87 FR 10570, RIN 1615-AC74, regarding the public charge ground of inadmissibility. Under the NPRM, The Department of Homeland Security (DHS) proposes changes to determining whether a noncitizen is inadmissible to the United States because they are likely at any time to become a public charge. The proposed rule states that a noncitizen would be considered likely at any time to become a public charge if they are “likely at any time to become primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or long-term institutionalization at government expense.” The rule generally codifies, with clarifications and certain adjustments, the 1999 Interim Field Guidance from DHS that is currently in effect.

APHSA believes the proposed rule’s interpretation of “likely at any time to become a public charge” is a positive step forward to affirm an approach that focuses on receipt of public cash assistance for income maintenance and long-term institutionalization when considering primary dependency on government assistance. As noted in the proposed rule, the more expansive, previous 2019 proposed rule – which included other non-cash benefits such as SNAP, Medicaid, and housing vouchers – led to significant chilling effects for accessing public assistance programs among the broader immigrant community<sup>1</sup> while unduly counting targeted forms of assistance without proper discretion to consider the totality of an individual’s circumstances.

In considering past or current receipt of cash assistance in a public charge determination, such as Temporary Assistance for Needy Families (TANF) or state general assistance, we urge DHS to carefully consider the length, amount, and structure of such assistance. Specifically, DHS should take into consideration factors such as: (i) if the amount of cash assistance received constitutes a subsistence amount, (ii) the time-limited nature of assistance, (iii) requirements on adult members of the household

---

<sup>1</sup> <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>



1300 17TH STREET NORTH, SUITE 340, ARLINGTON, VA 22209

TEL (202) 682-0100

FAX (202) 204-0071

WWW.APHSA.ORG

receiving assistance to work or engage in employment training activities designed to lead to family self-sufficiency, and (iv) exclusion of assistance for purposes of a child-only case. In TANF, benefits leave families well below the federal poverty line and overall have continued to decline in inflation-adjusted dollars since the 1999 Interim Field Guidance on public charge was issued. Further, TANF recipients generally may only receive assistance for up to five years, with some states setting shorter maximum time limits. Considering these factors, in addition to TANF's focus on employment and training activities that support people's ability to earn family-sustaining wages, further clarity on how such factors should be factored into a review of the totality of circumstances will help ensure the proper application of public charge reviews.

APHSA thanks the Department for inviting and carefully considering our comments as it re-examines how it defines public charge. Through APHSA's membership, the administrators of human services programs, we understand that human services provide foundational supports to families facing adversity and ensure familial and community resilience during times of economic hardship. We are eager to continue working with the Department to ensure non-citizen families have access to vital programs that meet their immediate needs and help them succeed and thrive in the long term.

Please reach out to Matt Lyons, Director of Policy & Research, at [mlyons@aphsa.org](mailto:mlyons@aphsa.org) with any questions or follow-up you may have.

Matthew Lyons

A handwritten signature in black ink, appearing to read "Matt Lyons", is positioned below the printed name.

Director, Policy and Research  
American Public Human Services Association