December 10, 2018

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

RE: Public Comment, DHS docket no. USCIS-2010-0012

Dear Ms. Deshommes:

We are writing on behalf of the members of the HIV Medicine Association (HIVMA), Infectious Diseases Society of America (IDSA), Pediatric Infectious Diseases Society (PIDS), and the Ryan White Medical Providers Coalition (RWMPC), to share our serious concerns regarding the impact of the proposed rule to expand the benefits considered under a "public charge" determination. **We urge the Department of Homeland Security to rescind the proposed rule due to the harm it would have on the health of immigrants, their families including children, and on public health**.

IDSA represents nearly 12,000 physicians, scientists and other healthcare professionals who specialize in infectious diseases (ID). HIVMA represents more than 6,000 clinicians and researchers working on the front lines of the HIV, viral hepatitis and other STD epidemics. PIDS represents 1,100 professionals dedicated to the treatment, control and eradication of infectious diseases affecting children. RWMPC represents medical providers and administrators nationwide who work in clinics supported by the Ryan White HIV/AIDS Program.

The proposed rule will have a harmful impact on immigrant access to preventive services, care and treatment including for communicable diseases compromising public health.

Infectious diseases recognize no borders and are not bound by any population or community. Access to health care under Medicaid, Medicare Part D, and other services is important to prevent and treat infectious diseases to keep individuals, families and communities healthy. HIV and some other infectious diseases disproportionately affect individuals who are low income and people of color who have historically faced significant barriers accessing health care, including stigma and discrimination. Expanding the "public charge" definition will discourage even more eligible immigrants from accessing the preventive services, basic healthcare and treatment important to their health and to prevent disease transmission. HIV clinics already report a decrease in their patients who are immigrants accessing the care and treatment that keeps them healthy and productive while also stopping HIV transmission.

The proposed rule if implemented will further marginalize immigrant populations at great expense to their health and public health. In addition, the safety-net clinics and institutions such as community health centers and public hospitals that many of our members work in are likely to see increases in uncompensated care due to higher uninsured rates including among eligible legal immigrants. Analysis conducted by George Washington University estimated that under the proposed rule Medicaid revenue for community health centers could decline by $346 million to $624 million resulting in a steep decline in the number of patients they will be able to serve with an estimate of between 295,000 and 538,000 persons affected.[1] In addition to the costs to public health and individual health, the proposed rule will result in increased healthcare expenditures due to individuals forgoing preventive and primary care services important to preventing more serious and costly to treat conditions.

We oppose the expansion of the programs, including for non-emergency Medicaid, Medicare Part D subsidies use or likely use, which would be weighted negatively in a public charge consideration.

Historically, the public charge definition and application has been limited, excluding public health, healthcare, and social services programs. This limited approach to public charge has been important in encouraging access to basic public health services, particularly for preventive and basic healthcare care services for children and adults and treatment for people living with HIV.

The proposed rule is likely to discourage immigrants from seeking basic healthcare including screening and treatment for infectious diseases including tuberculosis as well as immunizations for themselves and their families. Undiagnosed and untreated infectious diseases harm both the health of individuals and pose a significant risk for outbreaks. While the disease burden caused by TB is falling globally, increasing TB resistance to existing treatments and difficulties in identifying TB cases and connecting patients to treatment pose significant obstacles to TB elimination. In September, the US joined other nations in adopting the United Nations Political Declaration on the Fight Against Tuberculosis, which includes a commitment to provide diagnosis and treatment with the aim of treating 40 million people with TB from 2018 to 2022. The proposed rule will limit and discourage access to TB screening and treatment, running counter to these important goals.

Medicaid and Medicare Part D are both important sources of coverage for medically recommended immunizations with Medicaid covering 37 million children in the U.S. Children with Medicaid coverage are twice as likely to have routine check-ups and vaccinations than uninsured children. Adults with Medicaid coverage are four times more likely to receive preventive services. In many parts of the country, immigrants sometimes live in communities consisting largely of populations from their home countries. Depressing vaccination rates in these populations could create clusters of unvaccinated or under-vaccinated communities, increasing the likelihood of outbreaks of vaccine-preventable diseases, such as measles, mumps and varicella, threatening public health for all.

[1] Ku, L., et al. How could the public charge proposed rule affect community health centers? Gieger Gibson/RCHN Community Health Foundation Research Collaborative (2018).

Medicaid is the largest source of HIV care and treatment in the U.S. covering more than 40% of people living with HIV who are in care.[2] Another 25% of people living with HIV who are in care are insured through the Medicare program.[3] The Kaiser Family Foundation estimates that as a result of the policy itself and how it will discourage eligible legal immigrants from accessing services that between 2.1 and 4.9 million individuals could disenroll from Medicaid if this public charge policy goes into effect.[4]

We strongly oppose adding consideration of additional programs including the Children's Health Insurance Program (CHIP).

We are strongly opposed to adding additional programs to the enumerated list. We also do not support allowing public benefits that are not explicitly listed in the rule to be weighed negatively in the totality of the circumstances review. Because immigrants subject to public charge would have no way of knowing which benefits were allowable and which were not, this proposal would have an even more chilling effect on immigrant access to a range of vital services, including public health and emergency services that are excluded from the public charge inquiry.

We also are strongly opposed to adding CHIP to the list of enumerated programs. In 2016, an estimated 5.8 million citizen children with a non-citizen parent were covered by CHIP or Medicaid.[5] Thirty-three states offer coverage to lawfully present immigrant children without a waiting period and 25 offer coverage to pregnant women without a waiting period.[6] The addition of CHIP as a negative factor to the public charge determination would jeopardize access to preventive services and basic healthcare for the many children who are eligible for services. Penalizing the use of CHIP would undercut the sound public policies that states have put in place to ensure basic healthcare services are available to immigrants to protect their health and improve public health.

We strongly oppose the expansion of disability and health status factors.

We are concerned by the proposal to weigh a disability and the need for supportive services negatively and by how this proposal may affect some people living with HIV. The proposal will effectively bar entry for people with disabilities solely based on their condition. In addition, Medicaid, Medicare Part D, and other programs proposed by DHS as negative factors for public charge review serve to support individuals to live self-sufficient, full, and productive lives. Given that approximately three in ten adults under age 65 enrolled in Medicaid have a disability,

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[2] Kaiser Family Foundation, Medicaid's Role for Individuals with HIV (2017), available at https://www.kff.org/infographic/medicaids-role-for-individuals-with-hiv/.

[3] Kaiser Family Foundation, Medicare and HIV (2016), available at https://www.kff.org/hivaids/fact-sheet/medicare-and-hiv/.

[4] Kaiser Family Foundation, Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid (2018), available at https://www.kff.org/report-section/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaide-key-findings/.

5 Perreira, KM, Yoshikawa, H, Oberlander J. A New Threat to Immigrants' Health — The Public-Charge Rule. N Engl J Med 2018; 379:901-903.

[6] Kaiser Family Foundation. Medicaid/CHIP Coverage of Lawfully-Residing Immigrant Children and Pregnant Women (2018).

weighing Medicaid negatively undercuts the very programs that are meant to support self-sufficiency, punishing anyone with a disability.[7]

In addition, the proposed treatment of individuals living with a serious medical condition is not based in sound science or public health principles and will arbitrarily punish individuals living with HIV and other chronic conditions. The proposed rule would negatively weigh a diagnosis of an illness that is "likely to require extensive medical treatment or institutionalization" and would more negatively weigh individuals who may not be able to purchase health insurance or have limited resources to cover medical costs. This proposal is discriminatory and will heighten the stigma that individuals with HIV already experience.

We urge DHS to consider the serious downstream implications of this rule on our nation's public health. We urge you to withdraw the proposed rule and instead advance policies that promote healthy families and communities. Please contact the HIVMA Executive Director Andrea Weddle at aweddle@hivma.org with questions regarding our comments.

Sincerely,

Cynthia L. Sears, MD, FIDSA
President, IDSA

W. David Hardy, MD
Chair, HIVMA

Paul Spearman, MD, FIDSA
President, PIDS

Anna Person, MD
Co-chair, RWMPC

[7] Kaiser Family Foundation, How Might Medicaid Adults with Disabilities Be Affected By Work Requirements in Section 1115 Waiver Programs? (2018).