ALAMEDA HEALTH SYSTEM

December 5, 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, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Ms. Samantha Deshommes:

On October 10, 2018, the Department of Homeland Security (DHS) issued a proposed rule that expands the definition of "public charge" and creates new barriers for legal immigrants if they access Medicaid (Medi-Cal in California) and other social services for which they are eligible. These new barriers could lead to reduced enrollment in Medi-Cal, causing patients to delay or forgo preventive and other critical services that are essential in maintaining the health of our community. Furthermore, if the rule is adopted, safety net health care delivery systems will experience increases in the number of uninsured patients without sufficient revenues to pay for the care provided leading to financial losses.

Alameda Health System (AHS) urges the U.S. Department of Homeland Security (DHS) to rescind its proposal, so that all families eligible for Medi-Cal and other public services in our community can access the care that they need in the most effective and efficient manner possible. Due to the unique populations served, it is expected that the proposed rule change would disproportionately affect public hospitals. While we disagree with the intent of the rule overall, given our role as health care providers, our comments are focused on the proposed addition of Medi-Cal in public charge considerations.

AHS is a leading health care provider and medical training institution in the San Francisco Bay Area. We have more than 4,600 employees, 1,000 physicians and almost 500 volunteers providing comprehensive medical treatment, health promotion and disease prevention programs to more than 162,000 patients annually. Our system includes three hospitals, a Level 1 adult trauma center, a skilled nursing/rehabilitation facility, four wellness centers and the only psychiatric hospital in the area.

Overview of Proposed Changes

The proposed rule would dramatically expand the types of programs and services that the federal government would consider in assessing an individual's dependency on public benefits under the "public charge" determination. Specifically, under the draft regulation, DHS proposes to expand the public benefits considered in a public charge determination to include, among other factors, receipt above a threshold amount of non-emergency Medi-Cal, the Supplemental Nutrition Assistance Program (CalFresh in California), the Medicare Part D Low-Income Subsidy Program, and housing supports. Receipt of these public benefits, especially recent or current receipt of these benefits, would be weighed heavily against immigrants who wish to adjust their status and would likely result in a greater number of public charge determinations made by the

U.S. Citizenship and Immigration Services. Although these individuals are legally eligible to receive Medi-Cal services and other benefits, they would be penalized for their use of such services.

We are deeply concerned about these proposed changes and expect that they would result in reduced participation in Medi-Cal, and other social programs – negatively affecting the health and financial stability of immigrant families and the growth and healthy development of their children, who are predominantly U.S.-born.[1]

Impact on Alameda Health System

If the proposed changes are implemented, Alameda Health System (AHS) expects far reaching consequences on our ability to effectively care for our immigrant communities. America's Essential Hospitals projects the total amount of Medicaid and Children's Health Insurance Program payments that would be at risk for AHS would total more than $58 million. Without a strong fiscal foundation, AHS' ability to serve all of our patients could be at risk.

Low-income families rely on Alameda Health System for preventive, primary, specialty, and surgical care – all of which are critical in ensuring that individuals and their families are safe, healthy, and productive in their communities. The changes outlined in the proposed rule would likely result in immigrants and their families forgoing essential services and delaying care until a health concern progressed, becoming more severe and costly. The University of California estimates that between 42,000 to 98,000 Medi-Cal and CHIP recipients in the Bay Area would be disenrolled from Medi-Cal if the changes proposed in this rule were to be adopted.[2] As a result, we expect that fewer families will access needed preventive care, leading to worse health outcomes, especially for pregnant or breastfeeding women, infants, and children;[3] more patients will rely on emergency department and acute services; and the prevalence of communicable diseases will increase – all resulting in the provision of less efficient care delivery and poorer health outcomes.

The scope and scale of this rule could also go far beyond just the immigrants that are targeted in the regulation. Due to the complexity of the rule and the considerable discretion DHS would have to make public charge determinations as proposed, we anticipate many more families with non-immigrant and immigrant members will take cautionary steps to ensure that their immigration status is not compromised. Previous experience suggests that the proposed rule would have a chilling effect that would likely lead to disenrollment among a broader group of individuals in immigrant families, even though the changes would not directly affect them.[4] For example, following the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, studies of the chilling effect found disenrollment rates of between 15% to 35% for all noncitizen immigrants and mixed-family children, and up to 60% for certain immigrant populations, such as refugees.[5] DHS acknowledges that the proposed rule could increase poverty, including among families with citizen children – and that immigrants foregoing benefits could experience lost productivity,

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[1] U.S. Citizenship and Immigration Services, Department of Homeland Security. (2018). Inadmissibility on Public Charge Grounds. *Federal Register, Vol. 83(196)*, 51114-51296.

[2] Ponce, N., Lucia, L., & Shimada, T. (2018). How proposed changes to the 'Public Charge' rule will affect health, hunger and the economy in California. *The UCLA Center for Health Policy Research.* Available at: http://healthpolicy.ucla.edu/newsroom/Documents/2018/public-charge-seminar-slides-nov2018.pdf

[3] Artiga, J., Garfield, R., & Damico, A. (2018). Estimated Impacts of the Proposed Public Charge Rule on Immigrants and Medicaid. *KFF.* Available at: https://www.kff.org/disparities-policy/issue-brief/estimated-impacts-of-the-proposed-public-charge-rule-on-immigrants-and-medicaid/view/footnotes/#footnote-373368-6

[4] Artiga, J., Garfield, R., & Damico, A. (2018).

[5] Ponce, N., Lucia, L., & Shimada, T. (2018).

adverse health effects, medical expenses due to delayed health care, and reduced productivity and educational attainment.[6]

The combined direct impact and further chilling effects of this proposed rule could result in financial losses for AHS. Medi-Cal is an essential source of federal funding for our system that enables us to provide high quality care and continuously improve service delivery and efficiencies. For decades, AHS has provided care to everyone, regardless of their ability to pay, or other individual circumstances. Significant disenrollment in Medi-Cal could reduce our revenues because of an associated increase in the provision of care to more uninsured residents which threatens our ability to ensure vital health care to all.

Impact on Alameda County, California

Data indicates that 41% of noncitizens in Alameda County live in families that use at least one of the four means-tested benefits that could be considered in a public charge determination, up from 3% under the current policy.[7] Outside of our system, we expect significant local economic ripple effects if the changes proposed are adopted. Alameda County estimates that households stand to lose $3.7 million in food assistance dollars, providers risk $26 million in lost health care dollars, 4,700 households lose Children's Health Insurance Program (CHIP) support and over 70,000 additional families will struggle to make ends meet. At the regional level in the Bay Area, about $397 million could be lost, through a reduction in federal benefits, lost state and local tax revenues, lost jobs, lost economic output, and lost revenue for our local businesses.[8]

As stated earlier, Alameda Health System strongly disagrees with the intent of the rule overall. For the reasons outlined in this letter, **we urge DHS to rescind its proposal to change the longstanding public charge determination policy. We also urge DHS to not include the use of Medicaid (Medi-Cal in California) and Children's Health Insurance Program benefits, which is currently embedded in our State's Medi-Cal program, as part of the final rule.** Should the proposed rule be finalized as drafted, the expanded definition would punish lawfully present individuals and families and result in higher costs for health care providers.

Thank you for the opportunity to submit comments.

Sincerely,

Delvecchio Finley, CEO Alameda Health System

[6] U.S. Citizenship and Immigration Services, Department of Homeland Security, 51270.

[7] Batalova, J., Fix, M. (2018) "Chilling Effects" of the Proposed Public-Charge Rule in Alameda County, CA. Migration Policy Institute.

[8] Ponce, N., Lucia, L., & Shimada, T. (2018).