KernMedical

December 10, 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

Submitted via www.regulations.gov (or if mailing please reference: DHS Docket No. USCIS-2010-0012 in your correspondence).

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 Kern Medical would experience financial losses from an increase in uninsured care. **We urge 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.** 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.

Kern Medical is a Central Valley health care organization, with a 222-bed hospital, a comprehensive offering of primary care and specialty clinics, and a large body of highly skilled doctors, nurses, technicians and other health-care providers. Kern Medical is the only trauma center in the region and offers critically in-demand specialty services to the area. As a public hospital, we are committed to serving the people of our community and assisting fulfill Kern County's responsibility of providing care to its indigent population. The Medi-Cal population is crucial to our organization as our 70% of the patients seen at Kern Medical are enrolled in Medi-Cal and 9% have no insurance.

Kern Medical is the only teaching hospital in Kern County which allows us to attract and retain top physicians to a community which is otherwise medically underserved. Our approximately 1,650 staff and 150 physicians take pride in the role they play in providing care at this safety net hospital. In 2014, Kern Medical was at risk of closure due to financial constraints, however, through operational improvements and the assistance of Medi-Cal Expansion, the health system has worked to become profitable and continues to play its role as a trauma center, teaching facility and safety net for the community.

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. Longstanding policy requires immigrants who are applying for lawful permanent resident status, or admission to the U.S., to undergo a "public charge" determination. As part of this determination, immigration officials assess current or prior receipt of certain public benefits (cash assistance and government funded institutionalization) within the context of the individual's circumstances to discern if the individual is likely to become primarily dependent on government assistance, or become a public charge. If the immigrant is found to be a public charge, immigration officials may deny the application for permanent residency status or entry into the U.S.

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] In addition to the effects of coverage loss, described below in greater detail, we expect that reduced participation in nutrition and other social support programs, such as housing, would likely compound these adverse impacts on health outcomes in our community. Housing and nutrition access have both been shown to positively improve health outcomes for high-risk populations and decrease health care costs.[2]

Impact on Kern Medical

If the proposed changes are implemented, we expect far reaching consequences on our ability to effectively care for our immigrant communities. Low-income families rely on Kern Medical for

[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] Taylor, L., Coyle, C., Ndumele, C., Rogan, E., Canavan, M., Curry, L., & Bradley, E. (2015). Leveraging the social determinants of health: What works? *Blue Cross Blue Shield of Massachusetts Foundation.* Available at: https://bluecrossmafoundation.org/sites/default/files/download/publication/Social_Equity_Report_Final.pdf

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. In addition, many immigrants currently and lawfully enrolled in Medi-Cal are expected to disenroll because participation in the program would negatively affect their chances of obtaining lawful permanent residency status and compromise their ability to eventually become citizens. The University of California estimates that between 90,000 and 126,000 Medi-Cal and CHIP recipients would disenroll from Medi-Cal if the changes proposed in this rule were to be adopted. 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 immigrant families 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, 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 Kern Medical. Medi-Cal is an essential source of federal funding for our system that enables us to provide high quality care to 9,735 inpatients and 144,006 outpatients each year, and continuously improve service delivery and efficiencies. For decades, Kern Medical has provided care to everyone, regardless of their ability to pay, or other individual circumstances. Significant disenrollment in Medi-Cal could reduce Kern Medical's revenue, and increase our costs associated with providing a greater level of uninsured care. Without a strong fiscal foundation, Kern Medical's ability to serve all of our patients could be at risk.

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[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). 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

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

Outside of our system, we expect that significant local economic ripple effects if the changes proposed are adopted. Our health system stands to lose $54,000,000. Kern Medical has fought to overcome recent financial challenges, and continues to look for ways to improve its financial health. The backlash of the proposed changes in this rule could be crippling to an organization that is just emerging from financial hardship. At the regional level, $432,000,000 could be lost, through a reduction in federal benefits, lost state and local tax revenue, lost jobs, lost economic output, and lost revenue for our local businesses such as for grocery stores. The combined direct impact and further chilling effects of this proposed rule could result in financial losses for Kern Medical. Medi-Cal is an essential source of federal funding for our system that enables us to provide high quality care to 9,735 inpatients and 144,006 outpatients each year, and continuously improve service delivery and efficiencies. For decades, Kern Medical has provided care to everyone, regardless of their ability to pay, or other individual circumstances. Significant disenrollment in Medi-Cal could reduce Kern Medical's revenue, and increase our costs associated with providing a greater level of uninsured care. Without a strong fiscal foundation, Kern Medical's ability to serve all of our patients could be at risk.

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As stated earlier, we strongly disagree with the intent of the rule overall. For the reasons discussed 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 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.

Respectfully,

Russell V. Judd
Chief Executive Officer
Kern Medical