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Comment on Public Charge Ground of Inadmissibility, CIS No. 2836-25, DHS Docket No. USCIS-2025-0304

The Center for Science in the Public Interest (CSPI) submits these comments in response to the U.S. Department of Homeland Security (DHS) Notice of Proposed Rulemaking (NPRM) on Public Charge Ground of Inadmissibility. We strongly urge DHS to withdraw the proposed rule.

CSPI is a non-profit organization with a mission to advocate for evidence-based and community-informed policies on nutrition, food safety and health; to hold government agencies and corporations to account; and to empower consumers with independent, unbiased information to live healthier lives. CSPI works with community-based organizations nationwide to strengthen access to the Supplemental Nutrition Assistance Program (SNAP) and to advance policies that ensure all children have access to healthy school meals. CSPI is an independent organization that does not accept any corporate donations.

In 2022, DHS finalized a public charge rule that provided clear, bright-line guidance on how immigration officials should assess whether a noncitizen is likely to become a “public charge.”¹ A public charge determination assesses whether a person is likely to become primarily dependent on the government for subsistence, which can affect eligibility for lawful permanent residence. As required by statute, public charge determinations are made based on a totality of the circumstances assessment, in which immigration officers weigh multiple factors rather than applying a fixed numerical threshold.

The 2022 final rule constrains that discretionary assessment by limiting which types of public benefits could be considered. Under that rule, DHS can only consider a person’s use of a narrow set of government benefits in a public charge determination, limited to specific cash assistance programs and long-term institutionalization. The 2022 final rule explicitly excludes non-cash programs, such as key nutrition programs, including the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and the School Breakfast and National School Lunch Programs (SBP and NSLP, respectively). Excluding these programs from public charge determination ensures that families can access essential nutrition and health supports without fear of endangering their immigration status. Importantly, the 2022 final rule also restricts the public charge determination to only

consider benefits received directly by the applicant, not by their family members, ensuring that children's use of benefits cannot be held against their parents.

The current proposed rule would rescind the 2022 final rule in its entirety and replace it with a highly discretionary framework that removes clear exclusions and does not specify which additional public benefit programs may be considered in a public charge determination beyond those required by statute. While the public charge test would continue to operate as a totality of the circumstances assessment, the proposed rule would significantly expand the range of benefits and household factors that individual U.S. Citizenship and Immigration Services (USCIS) officers may weigh. This includes the use of non-cash nutrition programs like SNAP, WIC, SBP, and NSLP. The current proposed rule would also allow individual officers to consider benefits used by an applicant's household members, including U.S. citizen children, expanding the scope of what can be considered and increasing the likelihood of a public charge determination.

By eliminating the clear exclusions and guidance in the 2022 final rule, the proposed rule would create broad uncertainty for immigrant families about whether using nutrition assistance could carry immigration consequences. That uncertainty is likely to deter eligible families from enrolling in or continuing to participate in essential nutrition programs, including SNAP, WIC, SBP, and NSLP. Reduced participation in these programs is likely to increase the risk of preventable hunger, food insecurity, and poor health among children and families. We therefore urge DHS to withdraw this NPRM so that the 2022 final rule remains in place, preserving the explicit exclusion of SNAP, WIC, SBP, and NSLP from consideration in public charge determinations.

Our rationale for opposing the proposed rule is as follows:

1. The Proposed Public Charge Ground of Inadmissibility Rule Threatens Access to SNAP

SNAP is the nation's largest anti-hunger program and is associated with improved food security, improved health, and reduced poverty.^{2,3} Immigrants make up roughly 13 percent of the U.S. population, but noncitizens comprise only 4.5 percent of all SNAP participants, due in part to existing SNAP eligibility restrictions.^{4,5} Most lawful permanent residents are subject to a five-year bar before becoming eligible for SNAP. Other groups of immigrants, including people with Deferred Action for Childhood Arrivals (DACA) and those who are undocumented, are also ineligible for SNAP. Earlier this year, H.R. 1 revoked SNAP eligibility for certain immigrants who are granted humanitarian protection.

Given how restrictive SNAP eligibility already is for immigrants, the proposed rule is especially harmful. By allowing USCIS officers to consider any public benefit, including SNAP, in public charge inadmissibility determinations, DHS is discouraging participation by sending a message that even families who legally and legitimately qualify for SNAP may face immigration consequences for simply feeding their families.

This change will likely have deep chilling effects, as seen when similar public charge policy changes were proposed in 2018.⁶ After a 2018 proposed rule identified SNAP as a benefit that could be considered in public charge determinations, many eligible immigrant and mixed-status

families avoided enrolling in or continuing to participate in SNAP and other public benefit programs out of fear of immigration consequences.⁷ National data show that SNAP participation among U.S. citizen children living with a noncitizen declined by 22.5 percent, representing more than 718,000 children, between fiscal years 2018 and 2019, a drop five times greater than the decline among children in citizen-only households.⁸ Research also found widespread fear-driven avoidance of safety net programs, with more than one in seven adults in immigrant families reporting that they or a family member avoided non-cash benefits, including SNAP, because of immigration concerns.⁹

Even after the 2022 final rule provided clear guidance on included programs and did not allow DHS to consider a person's SNAP use in a public charge determination, research shows that immigrant and mixed-status families continued avoiding enrollment in safety net programs. In 2022, 17 percent of adults in immigrant families with children reported that they or a family member avoided non-cash public benefit programs.¹⁰ At the same time, more than four in 10 adults in immigrant families with children reported experiencing material hardship, including food insecurity, unmet medical needs, and difficulty paying for basic utilities and housing.¹¹ The current proposed rule would reinforce the harmful conditions first created by the 2018 proposed rule. It would push families to forgo assistance for which they are eligible that keeps food on the table and stabilizes household finances.

These risks are magnified during disasters and crises when immigrants can be disproportionately susceptible to harm compared to native-born people in the U.S during such events.¹² If finalized, the current proposed rule could worsen fear of immigration consequences for using critical food support programs during emergencies, such as Disaster SNAP (D-SNAP) and the U.S. Department of Agriculture (USDA)-provided foods distributed during disaster response efforts. These programs are designed to protect the health and food security of households during disaster recovery.

2) The Proposed Public Charge Ground of Inadmissibility Rule Threatens Access to WIC

WIC is an essential nutrition program that provides food, nutrition education, and breastfeeding support to pregnant and breastfeeding women and children up to age five. It is one of the most effective programs for improving access to nutritious foods with nearly 7 million participating women, infants, and children, and the program has a strong track record of contributing to improved health outcomes and mitigating healthcare costs.^{13,14,15} In addition to reduced maternal and infant mortality, participation in WIC is associated with fewer premature births and improved nutritional status and overall health for parents and children.^{16,17,18} Many of these benefits are in part due to WIC contributing to higher rates of breastfeeding.¹⁹ The success of this program may also be attributed to WIC's mission of serving all who are eligible.²⁰ As such, WIC is one of the only programs permitted by Congress to not limit eligibility based on immigration status.²¹

Yet the proposed rule would discourage eligible participants from enrolling in WIC. Although an early, now-vacated public charge final rule issued in 2019 during the first Trump administration explicitly exempted WIC from consideration, fear and confusion about immigration consequences were associated with declines in participation; immigrants who were pregnant

were found to be 19 percent less likely to participate in WIC compared to their U.S.-born counterparts.²² The administration's proposed rule would create disincentives to enroll in the program, instilling fear in participants and undermining the program's success in building a foundation for a healthy pregnancy, infancy, and early childhood.

3) The Proposed Public Charge Ground of Inadmissibility Rule Threatens Access to School Meals

School meals, including SBP and NSLP, provide nearly 30 million children with nutritious meals every school day, supporting their health, learning, and overall well-being.²³ These programs are especially critical for children coming from low-income or food-insecure households as they offer consistent access to meals that many families can rely on. A 2021 analysis found that the healthiest food in U.S. children's diets is consumed at school; food consumed from school had a higher mean nutritional quality than from grocery stores, restaurants, or other sources.²⁴

The proposed rule may deter immigrant families from submitting applications for SBP/NSLP free or reduced-priced (FRP) meals, resulting in children missing out on the nutritional benefits of school meals.

The current proposed rule could also undermine direct certification, a process that automatically qualifies children for free meals when their household already participates in SNAP. The proposed rule may prevent families with children from participating in SNAP, resulting in fewer students being directly certified for free school meals. This could impact schools' eligibility for the Community Eligibility Provision (CEP), which allows schools in areas with high poverty rates to offer free breakfast and lunch to all students when at least 25 percent of students are identified for free meals through direct certification in SNAP or other qualifying programs, provided participation is financially viable for the school or district.²⁵ Such schools can then forego individual FRP applications, reducing paperwork and administrative burden for families and schools. Loss of CEP eligibility would reduce free meal access to all students, even non-immigrants, further broadening the community-level harm.

4) Preserving the 2022 Final Rule Upholds Federal Commitments to Hunger Reduction and Health

The mission of the USDA Food and Nutrition Service (FNS), the agency that administers SNAP, WIC, and school meals, is "to increase food security and reduce hunger... by providing children and low-income people access to food, a healthy diet, and nutrition education."²⁶ In his 2025 Make America Healthy Again (MAHA) Executive Order, President Trump stated that the U.S. "must re-direct our national focus, in the public and private sectors, toward understanding and drastically lowering chronic disease rates and ending childhood chronic disease."²⁷ A public charge test that creates disincentives to use Congressionally established nutrition benefits would directly undermine these goals.

The current proposed rule itself acknowledges that "reduced access to public benefit programs by eligible individuals, including aliens and U.S. citizens in mixed-status households, may lead to...worse health outcomes, such as increased prevalence of obesity and malnutrition (especially

among pregnant or breastfeeding women, infants, and children).”²⁸ Access to a nutritious diet in childhood can set children up for lifelong health, and an unhealthy diet in childhood can increase the risk of disease in adulthood; children with obesity, which can be caused in part by poor diet and is associated with increased risk of chronic disease, are five times as likely to have adult obesity as children who did not have childhood obesity.²⁹ Therefore, access to programs like SNAP, WIC, and school meals that provide nutritious food to millions of children is essential for promoting health and preventing chronic disease. Furthermore, the MAHA Strategy Report explicitly states that USDA and HHS will work to increase breastfeeding rates³⁰; WIC promotes breastfeeding as the optimal infant feeding method.³¹ By discouraging participation in proven nutrition interventions during critical periods of development, the proposed rule would directly undermine federal efforts to reduce chronic disease and improve long-term health outcomes for children and families.

In conclusion, we strongly urge you to withdraw the current proposed rule and preserve the 2022 final rule. At the very least, if DHS does proceed with rulemaking, it must clearly state that benefits received under the 2022 public charge rule will not be used against applicants for permanent residency. Families rely on those assurances when applying for SNAP, WIC, and school meals, and retroactive penalization would be grossly unfair. Thank you for considering our comments on this DHS proposal.

Sincerely,

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