December 10, 2018 ***Submitted via www.regulations.gov***

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

The mission of LeadingAge is to be the trusted voice for aging. The members of LeadingAge and partners impact the lives of millions of individuals, families, employees and volunteers every day. Our over 6,000 members and partners include non-profit organizations representing the entire field of aging services, 38 state associations, hundreds of businesses, consumer groups, foundations and research centers. LeadingAge is also a part of the Global Ageing Network, whose membership spans 30 countries. LeadingAge is a 501 (c)(3) tax-exempt charitable organization focused on education, advocacy and applied research.

LeadingAge writes in response to the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking (NPRM) to express our strong opposition to the changes regarding "public charge," published in the Federal Register on October 10, 2018. The proposed rule would cause serious harm to older immigrants and their families, localities, states, and health care and housing providers. We urge that the rule be withdrawn in its entirety, and that long-standing principles clarified in the 1999 field guidance remain in effect.

In 2016, 15.2% of the population, 49.2 million people, was age 65 and over. By 2040, there will be over 82.3 million individuals age 65 and over representing 21.7% of the population in the United States[1]. As Americans are aging, their need for supportive services increase.

Under the current policy, the federal government does not consider use of Medicaid, the Children's Health Insurance Program (CHIP), or other non-cash benefits in public charge determinations with the exception of use of Medicaid for long-term institutional care**.** The proposed

[1] 2017 Profile of Older Americans, Administration on Community Living, April 2018. https://acl.gov/sites/default/files/Aging%20and%20Disability%20in%20America/2017OlderAmericansProfile.pdf

rule would broaden the programs that the federal government would consider in public charge determinations to include previously excluded Medicaid, the Medicare Part D Low-Income Subsidy Program, the Supplemental Nutrition Assistance Program (SNAP), and federal Public Housing, Section 8 housing vouchers and Section 8 Project Based rental assistance. This change in the rules will have a devastating impact on the older adults our members serve, and on the workforce essential to providing those services.

Direct care workers provide critical assistance to millions of older adults who need help with dressing, bathing, eating and other daily tasks. Many of these direct care workers are immigrants or have family members who are immigrants. This proposed rule threatens the well-being of those direct care workers, and the ability of our members to recruit and retain workers to care for the people we serve. An estimated one million immigrants work in direct care, making up a quarter of the direct care workforce.[2] More than four in five are women, and nearly a third are over age 55. Because caregiving jobs tend to be part time and low-wage, many direct care workers utilize public benefits programs to support themselves and their families. Nearly half of immigrant direct care workers live at or below 200% of the federal poverty level, and more than 40% rely on programs such as SNAP and Medicaid. [3] If direct care workers are afraid to access these programs, their own health and well-being will be compromised.

The biggest challenge our members face is in workforce; there are not enough people in the field to serve the increasing needs of aging Americans. As our members explain:

> "*We are in a serious labor shortage and I do not support cutting off avenues for people who want to come to our area and contribute to our society even if that means they may be receiving some government assistance at some point. The last 5 people we hired to work as caregivers for our in-home care agency are immigrants. They are from Iceland, Turkey, Morocco, Kenya, and Mexico. As we all know, the job of Caregiver does not pay super well (we are striving to do better) and the people in these jobs may qualify for government assistance. But they are the people who are applying to work here (and they are all wonderful hires). Without them, who will take care of our elders? Our In-Home Care RN is from Mexico. He shared with me that his family was on the state health plan when he was a child. And now, he is an RN at a time when we are in desperate need of more RNs. I am thankful that his family was not prevented from coming to the United States just because they temporarily needed a boost. We need people who are excited to take on roles carrying for elders. I do not care if those people were born in the United States or not. And, if we do not pay them well enough to keep them off government assistance, then that's on us (and on the poorly funded long-term care system)".*
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> *"This country was built on the backs of immigrants and if these restrictions would have been in place in earlier years, the US would not be the economic powerhouse that it has become. This proposal discriminates against those who arrive in this country with few resources - over 70% of our staff*

[2] Robert Espinoza, PHI, Immigrants and the Direct Care Workforce (June 20, 2017), *available at* https://phinational.org/resource/immigrants-and-the-direct-care-workforce/.

[3] Robert Espinoza, PHI, Immigrants and the Direct Care Workforce (June 20, 2017(available at https://phinational.org/resource/immigrants-and-the-direct-care-workforce/.

> *(particularly CNAs, housekeepers and dietary workers) are immigrants and would probably not have been able to enter this country under the proposed rule changes. Many of our workers had to depend on some government assistance until they were in full time employment - now they receive full benefits and comprehensive health coverage*"

Unfortunately, the proposed rule will have a devastating impact on the ability of our members to recruit and retain direct care workers, many of whom use these programs to supplement their low-wage work. Without access to health care, nutritious food, and housing many care workers may be unable to afford to remain the United States. The ripple effect would exacerbate the current shortage of workers, leaving many older Americans without access to the caregiving they need.

This rule will also have a negative impact on older adults living in immigrant families in the United States who will be afraid to access services they need. Over 1.1 million noncitizens age 62 and older live in low- or moderate-income households.[4] As a result they would have no "heavily weighed" positive factors to offset the fact that their age is considered a negative factor. The proposal could prevent older immigrants from using the programs their tax dollars help support. The proposed rule change would lead to increased poverty, hunger, ill health and unstable housing by discouraging enrollment in programs that improve health, food security, nutrition, and economic security, with profound consequences for older adults and their families' well-being and long-term success.

Having health insurance is especially important for older adults because they have greater health care needs. Medicare is a lifeline for most older adults, including immigrant older adults who have worked for many years in the U.S. and earned this benefit. Medicare provides coverage for hospital care, doctors' visits, and prescription drugs. However, many Medicare beneficiaries rely on other programs to help them afford out-of-pocket costs. Almost 1 in 3 Medicare beneficiaries enrolled in Part D prescription drug coverage get "Extra Help" with their premiums and copays through the low-income subsidy.[5] Nearly 7 million older adults 65 and over are enrolled in both Medicare and Medicaid, and 1 in 5 Medicare beneficiaries relies on Medicaid to help them pay for Medicare premiums and cost-sharing.[6]

Medicaid is critical for long-term services and supports. Without Medicaid, older immigrants will not have coverage either for nursing home care or for supportive services in home and community-based settings. Medicaid is also the key to access oral health care, transportation, and other services Medicare does not cover and older adults could otherwise not afford. Low-income older adults also

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[4] Manatt, Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard (Oct. 11, 2018), https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population#DataDashboard

[5] Kaiser Family Foundation, Medicare Part D in 2018: The Latest on Enrollment, Premiums, and Cost Sharing (May 17, 2018), *available at* www.kff.org/medicare/issue-brief/medicare-part-d-in-2018-the-latest-on-enrollment-premiums-and-cost-sharing/.

[6] Kaiser Family Foundation, Medicaid Enrollment by Age, www.kff.org/medicaid/state-indicator/medicaid-enrollment-by-age/?dataView=1&currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

greatly benefit from programs such as Section 8 rental assistance and SNAP to meet their basic needs.[7] If immigrant families are afraid to access nutrition assistance programs, older adults will be food insecure and at risk of unhealthy eating which can cause or exacerbate other health conditions and unnecessarily burden the healthcare system. If immigrant families are afraid to seek housing assistance, older adults with limited fixed incomes and their families will have fewer resources to spend on other basic needs, including food, medicine, transportation, and clothing.

Without the ongoing coverage they need to afford their prescription drugs and other care and services, older adults are likely to develop more serious health care conditions, driving up the cost of care and creating a new uncompensated care burden on health care providers.

DHS asks for comment on whether additional programs should be considered in the public charge determination. We strongly oppose adding any programs to the currently enumerated list.

For the reasons detailed in the comments above, the Department should immediately withdraw its proposal, and dedicate its efforts to advancing policies that support—rather than undermine—immigrant older adults and their families in the future. If we want our communities to thrive, everyone in those communities must be able to stay together and get the care, services and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Eram Abbasi at eabbasi@leadingage.org to provide further information.

Sincerely,

Katie Smith Sloan

Katie Smith Sloan
President and CEO
LeadingAge

[7] *See* Justice in Aging, Supporting Older Americans' Basic Needs: Health Care, Income, Housing and Food (Apr. 2018), *available at* www.justiceinaging.org/wp-content/uploads/2018/04/Supporting-Older-Americans%E2%80%99-Basic-Needs_Health-Care-Income-Housing-and-Food.pdf.