



December 10, 2018

Ms. Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
Washington, DC 20529

Subject: 8 CFR Parts 2013, 212, 213, 214, 245, and 248 [CIS no. 2499-10; DHS Docket No. USCIS-2010-0012], RIN 1615-AA22, Inadmissibility on Public Charge Grounds

DHS Docket No. USCIS-2010-0012

Dear Ms. Deshommes:

I am writing on behalf of the National Association of Urban Hospitals (NAUH), a group of private, non-profit urban safety-net hospitals that work together to advocate fair and adequate support, financing, and reimbursement from government payers for hospitals that serve America's neediest communities, to convey to the Department of Homeland Security our objections to the proposed regulation governing "Inadmissibility on Public Charge Grounds" that was published in the *Federal Register* on October 10, 2018 (Vol. 83, No. 196, pp. 51114-51296).

NAUH's Perspective

NAUH believes the proposed regulation could have a chilling effect on the willingness of many legal citizens and legal non-citizens to seek out government health care programs for which they legally qualify. This could lead to millions of low-income legal citizens and legal non-citizens choosing not to seek the care to which they are entitled by law and ignoring serious illnesses and injuries until they become a crisis. When such individuals have no choice but to turn to hospital emergency departments in search of care – something hospital emergency departments are required by law to provide regardless of a patient's ability to pay – this could overwhelm those facilities and would do so to the detriment of other patients while also producing a surge of uncompensated care, especially for private safety-net hospitals. That, in turn, could jeopardize the jobs of thousands who work in those hospitals and the economies of the communities in which those hospitals are located. It could also jeopardize access to care for residents of these same communities – including ordinary people who receive their health care coverage from private insurers and Medicare.

We do not believe this is the intended purpose of this proposed regulation but it will be its almost certain impact, so NAUH respectfully asks the Department of Homeland Security to withdraw it.





The Proposed Policy Change in Brief

As part of a proposed new approach to regulating immigration, the proposed rule would expand the list of public programs that would be considered when determining whether individuals seeking a visa to enter the U.S. or to remain in the U.S., or any members of such individuals' immediate families, might be or become a "public charge" and therefore considered inappropriate for such permission. Of greatest concern to NAUH is the proposed addition of Medicaid and the possible addition of the Children's Health Insurance Program to this list. This, in our view, would be devastating: devastating to the individuals who participate in and rely on these programs, devastating to the private safety-net hospitals that care for these individuals, and devastating to the communities in which those individuals reside and in which those hospitals are located.

The Health Care Implications

NAUH believes fear, concern, and confusion over the proposed regulation would lead large numbers of legal immigrants to feel they must choose between seeking out government benefits to which they and their families are entitled by law or seeking to maintain their legal immigration status and protect the legal immigration opportunities of their family members by disenrolling themselves and their families from safety-net programs in which they currently participate. The consulting firm Manatt Health estimates that as many as 13.2 million individuals who are eligible for Medicaid or CHIP could disenroll from these programs and forego the care they need out of fear of the consequences of remaining in these programs if the proposed regulation is adopted. Whether their fears are justified would not matter: they would act in a manner detrimental to their own well-being or the well-being of their families based on their limited and mistaken understanding of this new regulation and its objectives.

When some of these things happen and some among these 13.2 million people become so sick that they absolutely must seek medical care, they will turn to hospital emergency departments, where they will be treated for the immediate health problem but where underlying medical problems cannot be fully addressed.

NAUH has encountered anecdotal evidence that this is more than a hypothetical problem: hospitals are already learning about patients canceling medical appointments and refusing to enroll in Medicaid or CHIP out of fear that they could lose their legal immigration status. In short, the very threat of the proposed regulation already appears to be putting at risk the health and well-being of some residents of low-income communities throughout America.

The Implications for Private Safety-Net Hospitals

When people who deny themselves care out of fear eventually do seek that care, many will be so sick that they will turn to hospital emergency departments for care. Those hospitals will provide the care they need: provide it both because that is their mission and because federal law prohibits hospitals from turning away patients in need of emergency care.

Removing as many as 13.2 million Americans from the ranks of the insured would have a potentially devastating financial impact on hospitals in communities with large immigrant populations. In addition to possibly overwhelming hospital emergency departments with extremely sick individuals who need costly care, the loss of insurance among some of these residents would greatly increase the number of uninsured patients private safety-net hospitals serve. Observers estimate that hospitals collectively would be forced to provide billions of dollars worth of additional uncompensated care – care, that is, for which hospitals





receive no payment at all. This would have potentially devastating implications for the low-income communities in which many private safety-net hospitals are located.

The Implications for the Communities in Which Private Safety-Net Hospitals are Located

The proposed change in the public charge regulation could result in some private safety-net hospitals becoming overwhelmed by the cost of caring for patients who, for whatever reason, have no health insurance or will not apply for insurance for which they are legally eligible. Wherever they are located, hospitals are major employers; in fact, most private safety-net hospitals are among the biggest employers, if not the biggest, in the communities in which they are located and provide jobs to residents of those communities. If private safety-net hospitals struggle financially as a result of the impact of this new regulation they could eventually be forced to lay off employees, thereby increasing unemployment in communities that traditionally have high levels of unemployment even in the best of economic times. With that loss of jobs would come a loss of local and state tax revenue as well.

Hospitals struggling in this manner often attempt to prevent financial disaster by discontinuing types of clinical services that, even under ideal circumstances, lose money or make very little, such as delivering babies, providing behavioral health services, and treating individuals with substance abuse disorders and opioid addictions – among the very services typically covered for Medicaid patients. These and other such services, however, are sought by more than Medicaid patients and the uninsured: they are used by others who live in these communities, such as those covered by commercial insurance and Medicare. When hospitals end such services, more than Medicaid and uninsured patients lose access to them: entire communities lose access. In this manner, the actions of the 13.2 million people who might choose not to seek or retain health care coverage through Medicaid and CHIP because of the proposed changes in the public charge regulation could be greatly amplified and ultimately affect access to health care for many more millions of Americans.

Conclusion

Regardless of its objectives, the proposed public charge regulation could have a damaging effect on people, on workers, and on communities. People who need care and are legally entitled to government benefits may disenroll from Medicaid and CHIP or avoid enrolling in them. Providers, such as the private safety-net hospitals that are part of NAUH, could find themselves providing ever-greater amounts of care to people without the means to pay for their care. People may lose jobs. Communities of people – including people who are not at all directly affected by this regulation, including millions of privately insured and Medicare beneficiaries – may lose access to vital medical services. For these reasons, but mostly because this proposed regulation could place the health of entire communities at risk, NAUH respectfully request that the Department of Homeland Security withdraw this proposed regulation and find another, better way to regulate admission to the U.S.

About the National Association of Urban Hospitals

The National Association of Urban Hospitals advocates for adequate recognition and financing of private, non-profit, urban safety-net hospitals that serve America's needy urban communities. These urban safety-net hospitals differ from other hospitals in a number of key ways: they serve communities whose residents are much older and poorer; they are far more reliant on Medicare and Medicaid for revenue; they provide far more uncompensated care; and unlike public safety-net hospitals, they have no statutory





entitlement to local or state funds to underwrite their costs. NAUH's role is to ensure that when federal officials make policy decisions, they understand the implications of those decisions for these distinctive hospitals. NAUH pursues its mission through a combination of vigorous, informed advocacy, data-driven positions, and an energetic membership with a clear stake in the outcome of public policy debates.

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NAUH appreciates the opportunity to present these comments to the Department of Homeland Security and invites questions about the concerns we have raised.

Sincerely,

A handwritten signature in black ink, appearing to read "E. J. Kugler".

Ellen J. Kugler, Esq.
Executive Director

