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 Ave. NW
Washington, DC 20529-2140

Sent via www.regulations.gov

Re: DHS Docket No. USCIS-2010-0012

Dear Ms. Deshommes:

On behalf of the Texas Medical Association (TMA), which represents more than 52,000 physicians and medical students, thank you for the opportunity to comment on the U.S. Citizenship and Immigration Services (USCIS) Proposed Rule: *Inadmissibility on Public Charge Grounds*, published on Sept. 22, 2018. National immigration policy is not generally within TMA’s bailiwick. Yet when proposed changes to federal immigration policy intersect with the state’s health care delivery system, it is incumbent on TMA to provide input on how the changes will affect our members’ ability to care for their patients.

TMA’s mission is to improve the health of all Texans, a goal the physicians of Texas have pursued since the association’s founding in 1853. This includes advocating strongly for programs and initiatives to increase health care coverage. Yet as described below, USCIS’ proposed rule will increase the number of uninsured Texans. Already, Texas has the shameful distinction of being the uninsured capital of the nation, with more than 17 percent of residents lacking coverage. Any additional increase in Texas’ uninsured not only will undermine the state’s ability to tackle some of its most pressing health care challenges, such as improving birth outcomes, but also will jeopardize the financial health of thousands of physician practices by contributing to ever-rising rates of uncompensated care. As such, TMA does not support the proposed rule and respectfully urges the administration to withdraw it.

The existing definition of “public charge” allows federal officials to deny an immigration visa or an application for legal permanent residency if the official determines the applicant is likely to become dependent on public financial aid. However, the USCIS proposed rule adds health care, nutrition, and social services to the public charge definition, a major and alarming revision. Under longstanding policy, a legal immigrant’s use of health care, nutrition, or other social services has not been considered when evaluating if someone will become a public charge for the simple reason that use of such services conveys positive benefits to the health of the individual as well as to his or her children, most of whom are U.S. citizens, and the communities in which they reside.

Specifically, the proposed rule states that if a legal permanent resident (LPR) participates in nonemergency Medicaid, the Supplemental Nutrition Assistance Program (SNAP), or Medicare Part D
prescription drug subsidies, the use of those services will count negatively against the applicant, potentially resulting in the denial of legal permanent resident status. Moreover, if it is determined that the immigrant might use such services in the future, the LPR application also could be denied.

Federal law already restricts the use of Medicaid, the Children’s Health Insurance Program (CHIP) and other publicly financed health care services by legal immigrants. Temporary visa holders are ineligible for enrollment in these programs. And for five years following immigration to the United States, green card holders cannot enroll in Medicaid or CHIP. But there are important exceptions to the five-year waiting period for pregnant women and children. States' have the option to allow these populations to enroll in Medicaid or CHIP prior to the expiration of the five-year bar because doing so will ensure children and pregnant women receive the preventive, primary, and specialty care services they need to thrive. By providing coverage, pregnant immigrants are more likely to obtain early prenatal care, a key factor in addressing Texas’ alarmingly high rate of maternal mortality and morbidity. Additionally, a healthy pregnancy is vital to giving the unborn child — a future U.S. citizen — a head start on healthy development. If nothing else, such coverage is also just good business because healthy pregnancies and healthy babies result in lower future federal and state Medicaid costs.

Some 100,000 Texans receive a green card annually, though at any given time, many more legal immigrants are in the process of obtaining their green cards. Implementation of the rule will put these Texans in the untenable position of having to choose between participating in vital health care programs or risking the potential denial of their future LPR application. For those foregoing coverage, many will resort to costly, taxpayer-supported emergency departments instead, increasing uncompensated care costs for the physicians and hospitals that are required to provide this care and ultimately contributing to higher costs and property taxes for Texans.

Just as alarmingly, the rule threatens the insurance coverage of millions of children. According to the Urban Institute, in 2016, more than 1 million U.S. citizen children with a noncitizen parent were enrolled in Texas Medicaid or CHIP. Research shows many of these children’s parents will choose to drop their child’s coverage out of fear that if their child participates in these programs it will count against them.

While the published proposed rule makes clear that immigration officials will consider the parent’s use of health care services only in a public charge determination, misunderstanding and confusion about the rule certainly will contribute to families deciding to forego insurance for their children rather than take the risk. Anecdotally, this trend is already underway in Texas. Pediatricians and family physicians from across the state have reported being contacted by immigrant parents who have decided not to renew their child’s Medicaid or CHIP coverage as a result of the proposed rule, even for children with chronic conditions.

In the preamble to the rule, the Department of Homeland Security also seeks comment on whether to include the past or future use of CHIP in the definition of a public charge. TMA vigorously opposes the proposal. Recent data show a rise in the number of uninsured Texas children, reversing a decade of progress. Adding CHIP to the public charge definition will further harm efforts for the state to insure more children. CHIP provides health care to coverage to legal immigrant children residing in Texas, many of whom would otherwise go without health care coverage. Children with health insurance are healthier children because they have better access to the preventive and primary care services needed to prevent, detect, and treat illnesses more quickly. Healthier children also perform better in school, paving the way for being healthy, productive adults and future taxpayers. Additionally, in Texas, the CHIP-Perinatal Program (CHIP-P) provides basic, but essential prenatal care to immigrant women. As noted above, prenatal care promotes healthier pregnancies resulting in better birth outcomes for mothers and babies. Children born to CHIP-P enrollees will be U.S. citizens, and therefore are eligible to participate in Medicaid or traditional CHIP. Investing in prenatal care for their mothers helps decrease pregnancy-
related complications and rates of preterm delivery and subsequent costs associated with a the mother’s and/or baby’s stay in an intensive care unit — costs paid by Texas taxpayers.

The rule also will invariably harm the state’s public health by contributing to the spread of communicable diseases. Though the rule explicitly excludes public preventive health services from the public charge definition, vaccine coverage among immigrants and their family members most certainly will decline as a result of people dropping Medicaid or CHIP coverage because they likely will forego use of public vaccine clinics out of fear or misunderstanding about the rule.

When it published the proposed rule, the agency itself acknowledged the many negative consequences the rule will have on people and communities, including an increase in emergency department use, an increase in the prevalence of communicable diseases, an increase in uncompensated care, and worse health outcomes among immigrants and their families.

TMA concurs. Adoption of the rule will worsen Texas’ sky-high rate of uninsured, already the highest in the country, and immeasurably harm the health and well-being of Texas and Texans by:

- Undercutting efforts to improve maternal and infant health by deterring use of prenatal care among immigrant mothers in our country;
- Harming the health of children in our country by deterring immigrant parents from enrolling their children in Medicaid or CHIP, which provides children important preventive, primary and specialty care;
- Weakening efforts to address Texas’ opioid and substance use disorder crises by deterring pregnant and postpartum immigrant women from obtaining treatment in our country;
- Preventing low-income immigrant seniors in our country from purchasing needed prescription medications because of costs; and
- Increasing uncompensated care by physicians, health care providers, and hospitals, a potentially devastating blow to rural communities where physician practices and hospitals already operate on razor-thin margins.

We urge the agency to withdraw the rule.

Sincerely,

Douglas W. Curran, MD
President
Texas Medical Association

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1 Texas Medicaid covers a small number of qualified immigrant adults if the person arrived prior to 8/1/1996. Texas law precludes immigrants who arrived afterwards from enrolling in Medicaid, though federal law gives Texas the option to extend comprehensive Medicaid coverage to lawfully present pregnant women. Eligible immigrant pregnant women can enroll in the CHIP-P program, which offers a more modest benefit package, excluding specialty care except labor and delivery.