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December 6, 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; Proposed Rule—Inadmissibility on Public Charge Grounds

Dear Chief Deshommes:

The Healthcare Association of New York State, on behalf of our member nonprofit and public hospitals, nursing homes, home health agencies and other healthcare providers, appreciates the opportunity to comment on the Department of Homeland Security proposed rule regarding the impact of the receipt of public benefits on immigration status.

HANYS believes DHS' public charge proposed rule would have profound negative consequences for individuals, New York's hospitals and health systems and the communities they serve. HANYS urges DHS not to finalize these changes.

Under existing immigration law and guidance, certain individuals who are deemed likely to become primarily dependent on the government for financial support (a "public charge") can be denied admission to the United States or the ability to become a lawful permanent resident.

The proposed rule would make significant changes to the standard DHS uses to make public charge determinations, expanding the types of benefits considered as part of a public charge determination, and applying the new standard to additional populations. In doing so, the proposed rule would influence use of certain crucial benefits, including Medicaid and the Children's Health Insurance Program (CHIP), by immigrants and their citizen family members.

HANYS is extremely concerned that these changes, if finalized, would have grave and far-reaching consequences that extend well beyond the individuals directly targeted by the proposed rule.

In addition to the official comments submitted by the American Hospital Association (AHA), with which HANYS is fully aligned, the comments below emphasize our concerns with DHS' proposal.

LOSS OF COVERAGE

Currently, individuals seeking legal admission to the United States or seeking to become a lawful permanent resident are subject to a public charge test that determines whether they are likely to become primarily dependent on certain benefits. Benefits such as Supplemental Security Income, Temporary Assistance for Needy Families, institutionalization for long-term care and other cash benefits have historically been considered as part of public charge determinations.

DHS is proposing to expand the list of benefits considered in public charge determinations to include Medicaid and the Medicare Part D low-income subsidy. DHS is also seeking feedback on the inclusion of CHIP benefits in public charge determinations—a concept to which HANYS strongly objects. Nationally, about 276,000 more children were uninsured in 2017 compared to 2016—the first rise in the number of uninsured children in nearly a decade, and a statistic that would surely be exacerbated by including CHIP in public charge determinations.

While not all immigrants who are eligible for Medicaid or CHIP coverage would be subject to public charge determinations, this policy change would very likely deter individuals who are legally in the country from enrolling in such programs. Already, before the rule is even finalized. Providers on the ground have reported to HANYS a decline in use of early prenatal care services by immigrant women, for example, as well as some patients declining to renew Medicaid. The New York State Department of Health estimates that the chilling effect could lead to about one million more uninsured individuals across the state.

POORER PUBLIC HEALTH OUTCOMES

The resultant loss of coverage would undoubtedly have a compounding negative impact on public health, with patients forgoing treatment for medical conditions, which will result in more complex and likely costlier health issues in the long-term. This threatens to undo great strides made across New York to expand access to coverage and improve health outcomes. DHS recognizes this in its proposed rule, specifically citing among the potential consequences:

- worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants or children, and reduced prescription adherence;
- increased use of emergency rooms and emergent care as a method of primary healthcare due to delayed treatment;
- increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated;
- increases in uncompensated care in which a treatment or service is not paid for by an insurer or patient;
- increased rates of poverty and housing instability; and
- reduced productivity and educational attainment.

HANYS believes firmly that any proposal placing so many crucial factors at risk is deeply flawed and threatens the core mission of New York's hospitals and health systems to provide access to care and improve the health of our communities.

FINANCIAL STRAIN ON SAFETY-NET PROVIDERS

With the interaction of consequences raised above and the increased discretion afforded to immigration officials under this proposal, it is clear that providers serving some of the nation's most vulnerable patients will be faced with significant reductions in payments, more uncompensated care, and higher costs associated with treating sicker populations.

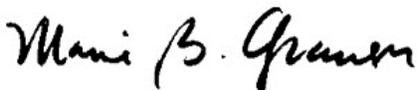
Nationally, an estimated \$68 billion in healthcare services for Medicaid and CHIP enrollees would be at risk of chilling impacts under the proposed rule. Given the robust effort to ensure access to coverage in New York, including through Medicaid and CHIP, the state is among those facing the highest level of funding at risk.

One safety-net hospital system in New York serving vulnerable populations estimates potential losses to reach over \$360 million to its facilities in just the first year if the proposed changes are finalized. According to a recent report, 16% of Medicaid and CHIP spending for enrollees in New York State, or about \$9.5 million in one year, would be subject to the chilling effect.ⁱ

In summary, HANYS strongly opposes DHS' proposed changes to public charge determinations and urges DHS not to finalize its proposed rule.

Thank you for the opportunity to comment on this proposed rule. If you have any questions regarding our comments, please contact Cristina Batt, Vice President of Federal Affairs, HANYS, at (202) 488-1272 or at cbatt@hanys.org.

Sincerely,



Marie B. Grause, RN, JD
President

ⁱ Manatt Health, "[Medicaid Payments at Risk for Hospitals Under the Public Charge Proposed Rule](#)" November 2018