



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Janelle Chan, Undersecretary

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 Avenue NW
Washington, DC 20529-2140.

Re: Comments on Inadmissibility on Public Charge Grounds Rule Docket No. USCIS-2010-0012

Dear Ms. Deshommes:

The Massachusetts Department of Housing and Community Development (DHCD) appreciates the opportunity to comment on the rule proposed by the Department of Homeland Security (“DHS”) to address “Inadmissibility on Public Charge Grounds.” **DHCD and the Commonwealth of Massachusetts are opposed to the changes in policy reflected in the proposed rule and strongly urge DHS to withdraw the proposed rule.** The proposed rule will have a significant adverse impact on the population that DHCD serves—including many immigrants lawfully present in our country—and more broadly on the public welfare and economy of the Commonwealth. **Massachusetts values the immigrant community’s role in making our state a vibrant and competitive commonwealth and believes the proposed changes to the public charge rule would harm these interests by discouraging lawful Massachusetts residents from accessing basic supports such as medical care and other programs intended to assist them in maintaining economic self-sufficiency.** At a minimum, DHCD recommends that DHS exclude all housing-related subsidies from the benefits included as “public benefits” under any final rule concerning the public charge determination.

Introduction

In determining whether an individual is, or is likely to become, a “public charge” and therefore inadmissible to the United States or ineligible for legal permanent residency, the Federal government has long recognized a distinction between cash benefits such as Transitional Assistance for Needy Families and non-cash benefits such as housing assistance. In the context of housing, the policy decision not to weigh receipt of non-cash housing benefits in the public charge determination has appropriately accounted for the unfortunate truth that many low-wage workers often do not earn enough to pay the market cost of housing. This is true as much for citizens as for recent immigrants lawfully present in the country. By dispensing with this distinction, the proposed rule ignores the critical role that immigrant workers play in

the United States economy by performing essential functions in our society. It also ignores the difference between “welfare”-style public assistance and benefits that support large numbers of working households in an economy where increases in housing costs have far outstripped wage increases.

State support for housing costs is a crucial support for all low and even moderate wage workers. In all but a few states, the hourly wage that a worker must earn in order to afford to rent a two-bedroom apartment at the HUD-determined “fair market rent (FMR)”¹ (commonly referred to as the “housing wage”) is at least \$15.00 per hour. In Massachusetts, the average “housing wage” required to afford a two-bedroom rental apartment is \$22.90. In fact, there is no state, metropolitan area or county in the United States where a worker earning the Federal or applicable state minimum wage and working 40 hours per week can afford to rent a two-bedroom apartment. A minimum wage worker in Massachusetts would need to work at least 104 hours per week to afford a 2-bedroom apartment. In high-cost areas of the state, the “housing wage” is even higher; in the Boston area, even in a household with two household members working two full-time minimum wage jobs *each*, the combined household income would be insufficient to afford a two-bedroom apartment at the HUD-determined fair market rent.²

Applicability to DHCD Programs

DHCD administers numerous federal housing programs that would be treated as public benefits under the proposed rule. For example, DHCD provides federal rental assistance to approximately 22,000 households through the Section 8 Housing Choice Voucher Program. DHCD also oversees the operations of approximately 240 local housing authorities, most of which also administer federal housing subsidies in addition to state housing subsidies. Additionally, the proposed rule may extend to other present or future DHCD programs, if the term “general assistance cash benefits”³ were construed to include certain short-term assistance that DHCD provides to or on behalf of homeless families or families at risk of homelessness.

Impact on Public Welfare and State Programs and Services

The proposed rule will increase homelessness and family separation amongst immigrant families and citizen children by discouraging immigrants who are lawfully present in the United States from relying on support to which they are fully entitled and that are intended to promote and sustain economic self-sufficiency. This disenrollment will have a range of negative impacts on the Commonwealth and the country.

Immigrants in Massachusetts tend to be concentrated in either low- or high-wage jobs. At the low-wage end of the spectrum, large numbers are employed in the Massachusetts health care system, where they work in positions such as home health aides and nursing assistants. A large number of immigrants working for lower wages in Massachusetts perform jobs such as building and grounds cleaning and maintenance.⁴ For these individuals and their families, many of which include United States citizen children, disenrollment from housing benefits to avoid “public charge” status under the proposed rule can be reasonably expected to increase financial instability and over time substantially increase homelessness.

¹ The United States Department of Housing and Urban Development determines the FMR annually, typically at the 40th percentile of gross rent (rent plus an allowance for tenant-paid utilities) (50th percentile in certain high-cost markets). In periods of rapid housing cost escalation, FMR may lag behind actual market rents.

² National Low Income Housing Coalition, *Out of Reach*, available at https://nlihc.org/sites/default/files/oor/OOR_2018.pdf.

³ An individualized benefit to households who do not qualify for major assistance programs and whose benefits from other assistance programs are insufficient to meet basic needs.

⁴ See The Immigrant Learning Center, *Massachusetts Immigrants by the Numbers: Demographic Characteristics and Economic Footprint*, available at <http://www.ilctr.org/wp-content/uploads/2017/09/ILC-MA-Immigrants-By-the-Numbers.pdf>.

This, in turn, will increase the financial and administrative burden on the Commonwealth, as well as local housing and service delivery systems, to provide emergency shelter. While this situation is particularly dire in Massachusetts, where households have little or no ability to seek alternative housing in the private marketplace, the disparity between the real cost of housing and the cost affordable to a low-wage full-time worker is a problem nationwide.

Increased homelessness, as well as the overcrowding that may occur if households “double up” to avoid sleeping in cars, bus stations or other places not intended for human habitation, will also increase public health and safety risks along with other costs associated with homelessness. Access to good housing is well recognized as a “social determinant of public health” based on supporting research. Unsurprisingly, families and individuals without stable housing are more likely to utilize emergency services and require hospitalizations.⁵ The trauma and destabilization of family separation that may result from households relinquishing housing assistance in order to avoid a “public charge” status is only likely to augment health stressors and the need for responsive services.

By discouraging lawfully present immigrant families from accessing housing assistance to which they are entitled, the proposed rule would also adversely impact both children who are displaced due to homelessness and the local educational systems serving those children. Under the federal McKinney-Vento Act, students experiencing homelessness have the right to continue attending their school of origin, and the lead educational agency in which the school or origin is located must provide or arrange the child’s transportation to and from the school of origin.⁶ The impact on local education systems will be particularly felt in communities where large numbers of immigrant households reside.

The proposed rule has the potential as well to adversely affect both DHCD and housing providers across the state if large numbers of immigrants withdraw from housing programs precipitously in order to preserve their legal rights to seek a change in immigration status. Such a withdrawal would destabilize housing providers on account of loss of rental income and the administrative burdens associated with move-outs, apartment turnover, and income-certifying new residents. This would potentially reverse or weaken longstanding efforts by the Commonwealth and housing authorities to develop, maintain, and support the stock of affordable housing that is critical to the stability of low-wage working households and, ultimately, the economy of the Commonwealth.

DHCD urges that DHS withdraw the proposed rule in view of its likely negative consequences for the wellbeing of immigrant families lawfully present in the United States and its destabilizing effects on the Commonwealth and other similarly situated states.

Sincerely,



Janelle Chan, Undersecretary

cc: Secretary Jay Ash
Secretary Marylou Sudders

⁵ See e.g., “Social Determinants of Health, Key Concepts,” WORLD HEALTH ORGANIZATION, available at http://www.who.int/social_determinants/final_report/key_concepts_en.pdf?ua=1; Housing is the Best Medicine: Supportive Housing and the Social Determinants of Health, CORPORATION FOR SUPPORTIVE HOUSING, available at https://d155kunxf1aozz.cloudfront.net/wp-content/uploads/2014/07/Social-DeterminantsofHealth_2014.pdf.

⁶ For further discussion, see, e.g., “McKinney-Vento Law into Practice Brief Series: Transporting Children and Youth Experiencing Homelessness, NATIONAL CENTER FOR HOMELESS EDUCATION, available at <https://nche.ed.gov/downloads/briefs/transportation.pdf> (citing to 42 U.S.C. § 11432(g)(3)(A) and 42 U.S.C. § 11432(g)(1)(J)(iii)(I)).