

December 07, 2018

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

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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***

Dear Ms. Deshombres:

On behalf of the Boston Bar Association's Real Estate Section, we respectfully submit these comments in opposition to the proposed regulations related to inadmissibility on public charge grounds, DHS Docket No. USCIS-2010-0012. The BBA Real Estate Section is led by a Steering Committee of attorneys in public, private, and non-profit practice and with an expertise in a range of real estate issues, from bankruptcy to zoning to affordable housing. The Committee provides programming for Bar members and members of the public and advises BBA Government Relations staff on public policy matters that impact real estate law. We write with special concern about the rule's inclusion of housing benefits and the impacts the regulation would have on housing insecurity and homelessness.

The proposed rule would dramatically change the way in which the Department of Homeland Security (DHS) determines whether an immigrant is likely to become a "public charge," requiring a wide-ranging investigation into an immigrant's history and economic prospects. While previously, the rule only included consideration of cash assistance and long-term institutionalized care, it now also includes, among a long list of other factors and benefits, receipt, or likely future receipt of public housing and Section 8 (both housing choice vouchers and project-based rental assistance) housing benefits.

Many groups have documented the sweeping chilling effects this proposed rule would have, as millions across the country choose to drop or forgo the receipt of public benefits to which they are entitled.<sup>1</sup> Based on confusion, fear, and misinformation, even those who are technically exempt from the public charge rule will forgo these housing benefits, as will the millions of U.S. citizen children who have an immigrant parent. Here in Massachusetts, the Massachusetts Budget and Policy Center's report on the Chilling Effective estimates that 500,000 individuals, 160,000 of them children, could forgo receiving much-needed benefits, even if they are exempt from the public charge determination.<sup>2</sup>

Overall, we are deeply concerned that the proposal would chill immigrants and their families from accessing much-needed housing assistance, which not only offers shelter but also provides a crucial bridge to broader economic stability and prosperity. Research has consistently revealed that unstable housing situations can result in increased hospital visits, loss of employment, and physical and mental health problems.<sup>3</sup>

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<sup>1</sup> <http://fiscalpolicy.org/public-charge> (The Fiscal Policy Institute estimates that the chilling effect would extend to 24 million people in the United States, including 9 million children under 18 years old).

<sup>2</sup> [http://www.massbudget.org/report\\_window.php?loc=A-Chilly-Reception-Proposed-Immigration-Rule.html](http://www.massbudget.org/report_window.php?loc=A-Chilly-Reception-Proposed-Immigration-Rule.html)

<sup>3</sup> [http://www.npc.umich.edu/publications/policy\\_briefs/brief29/NPC%20Policy%20Brief%20-%202029.pdf](http://www.npc.umich.edu/publications/policy_briefs/brief29/NPC%20Policy%20Brief%20-%202029.pdf) ; <http://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824http://pediatrics.aappublications.org/content/early/2018/01/18/peds.2017-2199>

Choosing to forgo the receipt of housing assistance that immigrants and their families are entitled to will have serious health and economic consequences, hindering self-sufficiency and prosperity. If the purpose of the proposed rule is, as stated, to better ensure that “aliens subject to the public charge inadmissibility ground are self-sufficient,” then removing a key source of that self-sufficiency is misguided. Indeed, in the 1999 guidance issues on public charge determinations, the government specifically concluded that these types of housing benefits, as well as things like healthcare and nutrition assistance, “are often provided to low-income working families to sustain and improve their ability to remain self-sufficient.”<sup>4</sup> DHS fails to adequately explain why suddenly receipt, or likely receipt, of these is no longer a step toward self-sufficiency but instead a signal that one is not or will soon not be self-sufficient.

We are also concerned about the provision of other benefits beyond housing, like Medicaid and SNAP, that will further exacerbate homelessness and housing insecurity. DHS itself acknowledged this chilling effect in the cost-benefit analysis accompanying the proposed rule, noting that the disenrollment in public benefit programs could lead to, among other things, “increased rates of poverty and housing instability.”<sup>5</sup> As individuals forgo health and nutrition benefits, they will face increased barriers to gaining and maintaining employment, which will lessen the ability for those individuals to stay in housing. Ultimately, when scaled out, these measures will harm the health and well-being of not only those directly impacted by the rule or its chilling effect but communities as a whole. In addition to these public health harms, the proposal will cost communities a great deal, both in increased health care costs (between \$14 million to \$57 million a year in Boston alone) and loss of talent and workers, stunting economic growth across sectors, including real estate and housing.

Housing providers, especially providers of affordable housing, will also face significant costs and burdens as a result of the rule. First, they will experience an increase in call volumes and questions about the new rule and will have to have update forms and notices to ensure that tenants and applicants have accurate information about the potential consequences of receiving certain housing assistance. In addition, affordable housing providers will face a tremendous workload as thousands more immigrants require detailed documentation regarding their history of benefit receipt. Many affordable housing providers do not have the budget or the staff to adequately respond to these requests. Finally, the anticipated chilling effect of the rule will result in many eligible families dropping off assistance, leading to tenant turnover and imposing significant administrative costs for housing providers. Troublingly, DHS fails to discuss any of these costs in their cost-benefit analysis. Before a final rule is imposed, DHS should provide a comprehensive analysis of the full costs the new rule will have on housing and housing providers.

In sum, the BBA Real Estate Law Section opposes the proposed regulation as it will exacerbate housing insecurity and homelessness and impose significant burdens on affordable housing providers. We appreciate your careful consideration of the above comments. If you would like additional information, please contact BBA Legislative and Public Policy Manager Alexa Daniel at [adaniel@bostonbar.org](mailto:adaniel@bostonbar.org).

Sincerely,

BBA Real Estate Law Section Steering Committee

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<sup>4</sup> <https://www.gpo.gov/fdsys/pkg/FR-1999-05-26/html/99-13188.htm>

<sup>5</sup> <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds>