

**U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue NW
Washington, DC 20529-2140**

Submitted via www.regulations.gov

RE: CIS No. 2655-20; DHS Docket No. USCIS-2019-0023; RIN: 1615-AC39: Comments in Response to Proposed Rulemaking: Affidavit of Support on Behalf of Immigrants.

I am writing on behalf of RESULTS in response to the Department of Homeland Security (DHS) Notice of Proposed Rulemaking, "Affidavit of Support on Behalf of Immigrants" which was published in the Federal Register on October 2, 2020.

RESULTS creates the public and political will to end poverty by empowering individuals to exercise their personal and political power for change. We support a network of more than 115 chapters with over 650 active volunteers (and an additional 7,000 members in our e-mail action network) across the U.S. Our grassroots advocates educate members of congress, work with the media, and build awareness within their communities on housing programs and policies, basic nutrition and health programs, along with budget and tax policies. Our grassroots network includes a specific focus on engaging young leaders and elevating the voices of low-income Americans who have firsthand experience of poverty.

As an organization we are focused on effective policies that create opportunity toward the goal of ending poverty, and we are concerned this policy will unfairly and unnecessarily create additional obstacles for people who have used public benefits – including Medicaid, CHIP, SNAP, SSI, and TANF – to sponsor their family members. Public benefit programs are critical ladders out of poverty, particularly for seniors and families with children. **RESULTS strongly opposes the changes to the Affidavit of support policy, which will deter immigrants and U.S. citizens from using public benefits they are eligible for**, increase costs, cause confusion, delays and fear, and ultimately deter sponsors from supporting family members' path to a green card. This proposed policy clashes with our country's commitment to supporting family reunification and supporting people's path to lawful permanent residency and citizenship.

RESULTS cares deeply about access for food assistance and health services. If finalized, the proposed policy would deter immigrants and U.S. citizens alike from accessing health care and nutrition benefits for which they are eligible. ; and increase USCIS's backlog. The additional documentary requirements included in the proposed rule -- requiring three years of tax return information, bank account details, and credit history --

create a substantial administrative burden and deterrent, and place sponsors in risk of financial fraud, without even being relevant to determining sponsor's income. Moreover, DHS fails to adequately evaluate the impacts of the proposed rule. While DHS describes the purpose of the rule as ensuring that sponsors and household members can meet their obligations, its true motive is to limit family-based immigration.

I. The proposed policy would deter immigrants and U.S. citizens alike from relying on health care and nutrition benefits.

The proposed rule would disregard sponsors' incomes and require them to have a joint sponsor if they or a member of their household member have used public benefits -- including Medicaid, CHIP, SNAP, SSI and TANF -- anytime within 36 months of executing the Affidavit of Support. Under the previous policy, sponsors were not required to find a joint sponsor if they or a member of their household used benefits.

This new public benefits provision will deter both immigrants and U.S. citizens from using benefits for which they are eligible if they hope to sponsor or joint sponsor a family member in the future. **The vast majority, 84 percent, of family-based immigrants are sponsored by U.S. citizens (see Table 1 below).** U.S. citizens, whether native born or naturalized, do not face public benefits eligibility restrictions based on their immigration status. A recent study revealed that in just a single year, 3 in 10 U.S. born citizens received Medicaid, SNAP, SSI, TANF or housing assistance.¹ It also showed that approximately 43 to 52 percent of U.S. born people participated in at least one of these programs in a 20-year period from 1997-2017.²

In addition, the Children's Health Insurance Program (CHIP), a benefit that would make a U.S. citizen ineligible to be a sponsor under the proposed rule, is by no means a program targeted at the poor. Pregnant women and children can be eligible for CHIP with incomes as high as 405% of Federal Poverty Level (FPL).³ In 19 states, the upper income limit of CHIP is greater than 300% of the FPL and in 10 states it is greater than 250% of the FPL, which is enough income to be a heavily weighted positive factor in the public charge test.⁴

¹ D. Trisi, Trump Administration's Overbroad Public Charge Definition Could Deny Those Without Substantial Means a Chance to Come or Stay in the U.S., Center on Budget and Policy Priorities (May 30, 2019) <https://www.cbpp.org/research/poverty-and-inequality/trump-administrations-overbroad-public-charge-definition-could-deny>

² *ibid.*

³ Kaiser Family Foundation, Medicaid and CHIP Income Eligibility Limits for Children as a Percent of the Federal Poverty Level, Kaiser Family Foundation (January 1, 2020) <https://www.kff.org/health-reform/state-indicator/medicaid-and-chip-income-eligibility-limits-for-children-as-a-percent-of-the-federal-poverty-level/?currentTimeframe=0&sortModel=%7B%22collid%22:%22Upper%20Income%20Limit%22,%22sort%22:%22desc%22%7D>

⁴ *ibid.*

DHS asserts that receipt of these benefits is evidence that a sponsor may be unable to maintain income equal to at least 125 percent of the FPL or to maintain their support obligations, but provides no evidence to support this assertion.

Sponsored by U.S. Citizens (Immediate Relatives)			Sponsored by U.S. Citizens (Family Preference)			Sponsored by LPRS
Spouses	Children	Parents	Unmarried Sons and Daughters	Married Sons and daughters	Brothers/sisters of U.S. citizens (at least 21 years of age) and their spouses and children	Spouses, Children, unmarried sons and daughters
268,149	66,794	144,018	27,251	19,531	59,940	109,841
478,961			106,722			109,841
585,683 total sponsored by U.S. citizens						109,841
695,524 total family-based immigrants						
84.2 percent of total family-based immigrants are sponsored by U.S. citizens (635,584 / 695,524)						15.8 percent are sponsored by lawful permanent residents
Source: Department of Homeland Security, Yearbook of Immigration Statistics, 2018, Table 6: https://www.dhs.gov/immigration-statistics/yearbook/2018/table6						

We should be supporting those who need access to anti-poverty assistance to do so, not deterring access. Immigration policies that create consequences for immigrants and their family members if they use a public benefit, create a deterrent effect well outside of those who would be directly affected. Despite the fact that under the 2019 DHS public charge rule, only a small percentage of non-citizens could be ineligible for green cards based on current benefit use,⁵ immigrants and their U.S. citizen family members are continuing to forego benefits for which they are eligible. ***In a recent national survey, nearly one in three low-income immigrants and their U.S. citizen family members shared that they are foregoing access to health care and economic supports because***

⁵ R. Capps et al, Public Charge Rule: Broad Impacts, But Few Will Be Denied Green Cards Based on Actual Benefit Use, Migration Policy Institute (March 2020). <https://www.migrationpolicy.org/news/mpi-estimates-non-citizens-ineligible-green-cards-based-current-benefit-use>

of fear of being designated a public charge.⁶ An interview with 16 health center leaders in September 2019, found that nearly half (47%) reported a decline in Medicaid enrollment by immigrant patients starting in 2018.⁷ A recent study published in the Journal of the American Medical Association found that nearly 500,000 people in Texas avoided public programs or medical care in the past year because of perceptions of the public charge rule and other immigration-related concerns.⁸ A New York University study found that the vast majority of immigrant-serving organizations (97 percent) surveyed reported elevated client fear of seeking human or health-related services.⁹ And, uninsured rates among Latino children widened for the first time in a decade in 2018, rising to 8.1 percent compared to 5.2 percent for all children and 4.2 percent for non-Latino children.¹⁰ The chilling effects of the rule change are widespread, with more than 10 million immigrants and 12 million of their U.S. family members potentially affected.¹¹

As an organization committed to ending poverty, RESULTS is very concerned this proposed change would deter low-income U.S. citizens and eligible immigrants from

⁶ Note that one in three *low income* immigrant families reported foregoing access to public benefits -- such as SNAP, Medicaid, CHIP or housing subsidies -- out of fear, and one in five of *all* immigrant families - regardless of income - reported foregoing access to programs. Low income families are more likely to meet the income-eligibility rules for public benefit programs. M. Haley, et al, "One in Five Adults in Immigrant Families with Children Reported Chilling Effects on Public Benefit Receipt in 2019," Urban Institute (June 18, 2020) available at: <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>

⁷ Tolbert J, et al. "Impact of Shifting Immigration Policy on Medicaid Enrollment and Utilization of Care Among Health Center Patients," The Henry J. Kaiser Family Foundation (Oct 15, 2019) available at: <https://www.kff.org/medicaid/issue-brief/impact-of-shifting-immigration-policy-on-medicaid-enrollment-and-utilization-of-care-among-health-center-patients>

⁸ B.D. Sommers, et al, "Assessment of Perceptions of the Public Charge Rule Among Low-Income Adults in Texas, JAMA available at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2768245>

⁹ H. Yoshikawa, et al "Approaches to Protect Children's Access to Health and Human Services in an Era of Harsh Immigration Policy," NYU Institute of Human Development and Social Change, available at: https://steinhardt.nyu.edu/sites/default/files/2019-10/Approaches_percent20to_percent20Protect_percent20Children's_percent20Access_percent20in_percent20an_percent20Era_percent20of_percent20Harsh_percent20Immigration_percent20Policy_0.pdf

¹⁰ K. Whitener et al, "Decade of Success for Latino Children's Health Now in Jeopardy," Georgetown University Center for Children and Families, (March 2020) available at: <https://ccf.georgetown.edu/wp-content/uploads/2020/03/Latino-Childrens-Health-Care-Coverage.pdf>

¹¹ Based on analysis of U.S Census Bureau data, the population that could feel the rule's "chilling effects" and disenroll includes 10 million noncitizens—47 percent of the noncitizen population in the United States. These noncitizens live in families with 12 million U.S.-citizen family members—nearly two-thirds of them children, and chilling effects will extend to their citizen family members. And it will fall particularly hard on the two largest racial/ethnic immigrant groups: Latinos and Asian American/Pacific Islanders (AAPI). Approximately 16.4 million people live in benefit-receiving families with at least one Latino noncitizen and 3 million live in such families with at least one AAPI noncitizen. J. Batalova et al, "Millions Will Feel Chilling Effects of U.S. Public Charge Rule That is Also Likely to Reshape Legal Immigration," Migration Policy Institute (August 2019) available at: <https://www.migrationpolicy.org/news/chilling-effects-us-public-charge-rule-commentary>

using means-tested public benefits like SNAP, which promote long-term health and well-being, especially for children.¹²

This rule will add to the confusion and fear already caused by the public charge rule, and make it harder and more costly for agencies and community based organizations to communicate accurate information about the policies because the list of programs that could disqualify an individual from serving as a sponsor is different from the programs taken into account for the public charge determination.

Ambiguity about the meaning of “household member” in this section of the rule will further increase the chilling effect. Does USCIS intend that the use of benefits by any member of the sponsor’s household trigger the restriction? Or does it apply only to a household member who executes a “Contract Between Sponsor and Household Member”?

In addition, a public health emergency/ health care pandemic is a terrible time to introduce a policy that makes anyone afraid to enroll in programs that provide health care, nutrition or other assistance they need to stay healthy. Instead of penalizing sponsors for accessing health care, nutrition or other public benefits, our national policy should encourage people to make sure their families are healthy, fed and safe. We urge strongly that DHS remove this policy of penalizing sponsors for use of benefits.

II. The proposed policy’s additional administrative load will lead to higher administrative costs and will add to USCIS’s backlog

The additional documentary requirements will require USCIS to review and potentially verify, 3 years of tax returns, in-depth bank account information, and credit history for at a minimum one sponsor, and in many cases the sponsor's spouse, a joint sponsor, and his or her spouse as well.

In 2018, USCIS received 451,163 I-864 forms, and the Department of State's National Visa Center (NVC) received 659,823 I-864 forms, for a total of 1,110,986 I-864 forms received in 2018 alone.¹³ If we estimate that USCIS officers or NVC staff require an extra hour of additional time per application, it will result in more than 1 million additional hours of paperwork for USCIS to review per year (1,110,986). If we use the \$37.55 per hour wage rate used in the proposed rule,¹⁴ this amounts to **\$41,717,524 or nearly \$42 million** in additional annual costs. If instead it takes two extra hours of additional time to review the

¹² Center on Budget and Policy Priorities, “Chart Book: SNAP Helps Struggling Families Put Food on the Table,” Center on Budget and Policy Priorities (November 2019) available at:

<https://www.cbpp.org/sites/default/files/atoms/files/3-13-12fa-chartbook.pdf>

¹³ AOS NPRM at 62457. This number is close to the five year average of 1,041,077 I-864 forms filed per year.

¹⁴ Affidavit of Support on Behalf of Immigrants, 85 Fed. Reg. 62,432 at 62460 (October 2, 2020).

paperwork, the cost will double. It will take more than 2 million additional hours of USCIS to review and cost \$83,435,048 million or nearly \$84 million in paperwork processing time per year.

DHS itself estimates that the total new quantified net costs to sponsors of completing the proposed paperwork -- Form G-1563, Form I-864, and Form I-864 EZ, obtaining credit reports, obtaining 3 IRS tax returns and opportunity costs to file at **\$2.4 billion**.¹⁵ So it should be no surprise that reviewing and verifying the information provided is also time-consuming and costly.

Before the public health emergency struck, USCIS's processing delays had already surged by about 25 percent from the end of Fiscal Year 2017 and 5 percent since the end of Fiscal Year 2018. And this was despite a 10 percent drop in cases received from the end of FY 17 through FY 19.¹⁶ With months of USCIS and DOS's consular office closures due to the COVID-19 pandemic, these delays are not expected to improve anytime soon. It is not an opportune time to add more paperwork and red-tape to the adjustment of status process in two very backlogged agencies.

We oppose DHS's proposal to add additional paperwork requirements for applications to already-overtaxed federal agencies. Instead, DHS should find ways to make the process of applying for immigration benefits easier, so that it can catch up on its backlog of cases.

III. A sponsor's income three years in the past is not an accurate reflection on his/her current or future income.

The proposed rule would require all sponsors to provide their last three years of federal income tax returns rather than only their past year's return. Sponsors currently have the option of providing up to their past three years of returns. This option can help sponsors who have recently seen lower earnings or hours or gaps in their work—as millions of Americans are experiencing now during the current pandemic-related recession. But requiring *all* sponsors to provide their past three years of returns will in many cases harm sponsors by slighting their current financial situation and painting a falsely negative portrait of their ability to support the immigrants they are sponsoring.

One can easily think of numerous circumstances in which a potential sponsor is financially able to meet the affidavit of support standards now but had significantly lower income before. The sponsor could have experienced a short-term layoff at work. The sponsor could have been a student, working and earning less and often taking on debt but seeking

¹⁵ Ibid. at 62434 to 62435.

¹⁶ AILA Policy Brief: Crisis Level USCIS Processing Delays and Inefficiencies Continue to Grow (February 26, 2020) <https://www.aila.org/advo-media/aila-policy-briefs/crisis-level-uscis-processing-delays-grow>

a degree or credential to gain a promotion or improve their earning prospects. The sponsor could have been on parental leave or could have needed to otherwise take time away from work to care for a child, parent, or other relative. The sponsor could have been seriously ill and unable to work but now fully recovered. Or the sponsor could have been starting a business that started slowly but is now making a profit. In each of these cases, the income that the sponsors would have reported on their tax returns would be significantly lower than their current income. Under the proposed rule, USCIS could use that lower income to determine that the sponsors cannot adequately support the sponsored immigrant even if the sponsors' current and prospective income would be adequate.

For many of these sponsors, waiting another year or two to sponsor their relative in order to put their period of lower income further behind them will not work. And, in addition, the timing of immigrant visas available for family preference immigrants is highly variable. For example, unmarried sons and daughters of U.S. citizens from Mexico who applied for immigrant visas by February 22, 2000 (known as their "priority date") are currently being processed for immigrant visas 20 years later, and people who filed by July 22, 2015 from China are currently being processed. Filing fees and the affidavit(s) of support then need to be filed within one year after their "priority date." Children risk aging out of eligibility as either immediate relatives or derivative beneficiaries. Aging parents go without the care and comfort of a sponsoring son or daughter. Sponsors who are building family-run businesses do without the trusted labor and skill that siblings and other relatives could provide. And spouses who have committed to sharing their lives together remain separated. Sponsors in these cases would have worked and waited long enough to regain financial stability. They should not be required to wait even longer to satisfy an unnecessary and arbitrary timeframe set by USCIS.

Nor should these sponsors be required to secure joint sponsors. These sponsors are fully capable of supporting their relatives by themselves *now*. They should not need to turn to another person to meet their support obligation--and should not need to ask that other person to take on the legal responsibility that joint sponsorship entails.

Instead of requiring all sponsors to provide their past three years of tax returns, USCIS should instead maintain the current rule requiring only the most recent return but allowing sponsors to present up to the three most recent years of returns.

IV. Requiring in-depth bank account information from all sponsors is neither relevant nor necessary.

USCIS is proposing to add a new requirement to the Form I-864 and related Forms I-864A and I-864EZ which would require U.S. citizens and lawful permanent residents sponsoring

their foreign spouse or relatives for a green card to provide in-depth bank account information. Specifically, sponsors (and household members whose income and/or assets are being used by a sponsor to qualify) would be required to provide the name of the banking institution, the number of the bank account, the routing number of the account, and the account holder's name. Co-sponsors will be required to provide the same information, which, combined with the proposed I-864's ominous warnings about sponsor reimbursement and sweeping release of information, will make it extremely difficult for petitioning family members to obtain co-sponsors.

DHS provides no reasonable justification for the massive documentary burdens and invasion of privacy that will result from requiring all sponsors and household members to provide information about their bank accounts. There is no legal authority for USCIS to require this information from all U.S. citizens and lawful permanent residents sponsoring their foreign spouse or relatives for a green card. Bank account information is not necessary or even relevant in order to verify the sponsor or household member's income, which is done through the submission of Federal income tax returns, W-2 wage and tax statements, and letters of employment. In some limited circumstances where the sponsor is using assets, specifically money in a bank account, to satisfy the 125 percent of the federal poverty guidelines, sponsors are already required to provide evidence of those assets by submitting copies of bank statements.

Moreover, this new requirement raises significant privacy concerns. In today's environment where cybercrime and identity theft are becoming more rampant, requiring all sponsors to disclose detailed bank account information, particularly when it is not even relevant or necessary, exposes them to heightened risk of becoming an identity crime victim. The inclusion of full bank account information is an invitation for financial fraud by anyone able to obtain a copy of the I-864, including sponsored former spouses and the staff of benefits agencies (who would no longer need to get a subpoena). A fundamental principle of data privacy is that data should not be collected or stored unless it is needed for a specific purpose. Individuals with close connections to countries with high levels of government corruption may be particularly concerned about sharing this information with a government agency.

V. Relying on credit history as a factor has a disproportionate impact on immigrants and naturalized citizens

Relying on credit history as a factor has a disproportionate impact on communities of color, including immigrants and naturalized citizens. Today's credit scoring system was built upon a credit market that discriminates against people of color and penalizes borrowers for using the type of credit disproportionately used by people of color. Our nation has a

history of explicitly excluding communities of color from low-cost and mainstream loans.¹⁷ Banks, appraisers, real estate agents, and others perpetuated redlining and predatory lending practices, disproportionately steering communities of color to high-cost products. **RESULTS is deeply concerned about the negative impact relying on credit history can have on low-income people and communities of color – as part of our longer-term focus on racial wealth inequality.**

Further, neither credit reports nor credit scores were designed to provide information on whether a consumer is more or less likely to maintain his or her income in the future. Nor are credit reports and scores any indication of whether the sponsor will be able to maintain the sponsored immigrant at the required federal poverty income level for the household size. Credit reports and credit scores are designed to have a very narrow and specific purpose: whether a borrower will become 90 days late on a credit obligation. A bad credit report or low score—or even the lack of one—is not a reliable predictor of the likelihood that an adjustment of status applicant will obtain public benefits or that a sponsor will fail to provide necessary financial support to that applicant. A bad credit record is often the result of circumstances beyond a consumer’s control, such as illness or job loss, from which the consumer may subsequently recover.¹⁸

Moreover, credit scores do not take into consideration many of the day-to-day expenses that sponsors and household members incur and meet, including paying bills and rent, typically a family’s largest recurring expense. Savings and checking accounts are not listed on credit reports from the big three credit bureaus because no borrowing or debt is involved. Credit reports and credit scores do not take these transactions into account and thus do not provide an accurate view of a sponsor’s financial history. Only sponsors and household members who have had a credit card, bank loan, unpaid bills in collection, mortgage, or bankruptcy are likely to have a credit report from one of the three major credit bureaus. As of 2010, approximately 15% of Black and Hispanic consumers, compared to an estimated 10% of their White counterparts, are “credit invisible,” meaning these consumers are without credit records.¹⁹ Even when consumers have credit scores, reports may have errors, which are difficult to correct, and lower consumers’ score. According to a

¹⁷ Lisa Rice and Deidre Swesnik “Discriminatory Effects of Credit Scoring on Communities of Color” National Fair Housing Alliance, June 2012 <https://nationalfairhousing.org/wp-content/uploads/2017/04/NFHA-credit-scoring-paper-for-Suffolk-NCLC-symposium-submitted-to-Suffolk-Law.pdf>.

¹⁸ Chi Chi Wu, *Solving the Credit Conundrum: Helping Consumers’ Credit Records Impaired by the Foreclosure Crisis and Great Recession*, National Consumer Law Center, 2013, www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.

¹⁹ Consumer Financial Protection Bureau, Credit Invisibles, May 2015, https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf.

study conducted by the Federal Trade Commission, one in five people have an error on at least one of their credit reports.²⁰

VI. The Department fails to adequately evaluate the impacts of the proposed regulation

The Department does not provide a rigorous qualitative discussion or reliable quantitative estimates of the proposed rule's overall impact, making it impossible for the public to understand and comment on the justification of the regulation or its effects. The Department fails to adequately evaluate the impacts of the proposed regulation, including in its discussion of costs and benefits in the preamble, leaving out considerable impacts in their analysis. In fact, the only costs that are actually reported are the direct and opportunity costs of the time spent filing the required forms: Form I-864, Form I-864A, Form I-864EZ, Form I-864W, I-865, and Form G-153.

The Office of Management and Budget has published a primer that summarizes what is involved in a cost-benefit analysis as required under Executive Order 13563, Executive Order 12866, and OMB Circular A-4.²¹ This primer states that agencies must produce:

"an estimate of the benefits and costs —both quantitative and qualitative—of the proposed regulatory action and its alternatives: After identifying a set of potential regulatory approaches, the agency should conduct a benefit-cost analysis that estimates the benefits and costs associated with each alternative approach. The benefits and costs should be quantified and monetized to the extent possible, and presented in both physical units (e.g., number of illnesses avoided) and monetary terms. When quantification of a particular benefit or cost is not possible, it should be described qualitatively. The analysis of these alternatives may also consider, where relevant and appropriate, values such as equity, human dignity, fairness, potential distributive impacts, privacy, and personal freedom. The agency's analysis should be based on the best available scientific, technical, and economic information. To achieve this goal, the agency should generally rely on peer-reviewed literature, where available, and provide the source for all original information. In cases of particular complexity or novelty, the agency should consider subjecting its analytic models to peer review. In cases in which there is no reliable data or research on relevant issues, the agency should consider developing the necessary data and research."

²⁰ Federal Trade Commission, February 2013 <https://www.ftc.gov/news-events/press-releases/2013/02/ftc-study-five-percent-consumers-had-errors-their-credit-reports>.

²¹ Office of Information and Regulatory Affairs, *Regulatory Impact Analysis: A Primer, N-d*, https://reginfo.gov/public/jsp/Utilities/circular-a-4_regulatory-impact-analysis-a-primer.pdf.

DHS has completely failed to meet this regulatory standard. Among the Department's most glaring omissions is an adequate analysis of the regulation's chilling effect on program participation and reduction in immigration benefits.

In the preamble, the Department recognizes that the proposed regulation: "could result in some sponsors and joint sponsors who may intend to sponsor a family member in the future forgoing enrollment or disenrollment from a means-tested public benefits programs to avoid triggering the proposed additional requirements. This could result in additional indirect impacts incurred from the change of the behavior due to this proposed rule." Despite acknowledging this chilling effect, the Department does not provide estimates of the number of individuals and their family members who may forgo or disenroll from public benefits or analysis of the downstream economic implications of these chilling effects on health care providers, state and local governments, or small business. DHS has further recognized the harmful consequences of chilling effects in recent rulemaking. In the preamble of the Department's Inadmissibility on Public Charge Grounds proposed regulation, the Department recognized that disenrollment or foregoing enrollment in public benefits programs could lead to:

- "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 health care 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."

This time around the Department fails to even recognize these harmful consequences of the proposed regulation's chilling effect and again fails to quantify the extent of these harmful outcomes and its cost to society. This is true even though there are rigorous studies that have assessed the benefits of program participation that could be used to measure the cost of the chilling effect. For example, research has found that greater Medicaid eligibility increases college enrollment, lowers mortality, and increases the amount individuals pay in taxes.²² Studies have found that every state dollar spent on prenatal care saves states between \$2.57 and \$3.38 in future medical costs.²³ Similarly,

²² David W. Brown, Amanda E. Kowalski, and Ithai Z. Lurie, "Long-Term Impacts of Childhood Medicaid Expansions on Outcomes in Adulthood," Yale University Department of Economics (June 2018). Found online at <http://www.econ.yale.edu/~ak669/medicaid.latest.draft.pdf>.

²³ Gorsky, "The Cost Effectiveness of Prenatal Care in Reducing Low Birth Weight in New Hampshire".; Institute

spending on SNAP for seniors has been shown to reduce hospitalization costs.²⁴

Additionally, the Department does not adequately assess immigration impacts of the proposed regulation. In the preamble, the Department acknowledges that “there could be a reduction in the number of immigrants granted an immigration benefit in cases where the intending immigrant is unable to obtain a sponsor who can meet the new requirements under this proposed rule.” However, the Department fails to provide any estimate of the reduction of people granted an immigration benefit, or any analysis on this immigration impact on the individuals, their families and communities, their employers, or society as a whole. For example, extensive research shows that parental detention and deportation harms a child’s mental and physical health, economic security, and educational outcomes.²⁵ A parent’s deportation can drastically undercut the economic security of families already struggling to make ends meet, especially when that parent is the primary or sole breadwinner. One study estimates that the sudden loss of a deported parent’s income can reduce a family’s household income by 73 percent.²⁶

Ultimately, the failure of the Department to adequately evaluate the regulation makes it impossible to justify the regulation and for the public to assess the regulation’s effect on our nation.

VII. The proposed rule is the Administration’s latest attempt to limit family-based immigration.

The proposed rule would create a perfect storm of red tape and fear that will deter family members and others from serving as sponsors, and ultimately limit family-based immigration. By increasing burdensome paperwork; allowing sponsors’ and co-sponsors’ sensitive, personal information to be shared; making sponsors fear enrollment in health care programs and other public benefits; and giving ominous warnings about fines and

of Medicine, “Preventing Low Birth Weight”.

²⁴ Samuel, *Does the Supplemental Nutrition Assistance Program Affect Hospital Utilization*.

²⁵ Ajay Chaudry, Randy Capps, Juan Manuel Pedroza, et al., *Facing our Future: Children in the Aftermath of Immigration Enforcement*, The Urban Institute, 2010,

<http://www.urban.org/sites/default/files/publication/28331/412020-Facing-OurFuture.PDF>; Brian Allen, Erica M.

Cisneros, Alexandra Tellez, “The Children Left Behind: The Impact of Parental Deportation on Mental Health,” *Journal of Child and Family Studies* 24 (2015), <https://link.springer.com/article/10.1007/s10826-013-9848-5>; Luis

H. Zayas, Segio Aguilar-Gaxiola, Hyunwoo Yoon, et al., “The Distress of Citizen-Children with Detained and Deported Parents,” *Journal of Child and Family Studies* 24 (2015), .

<https://link.springer.com/article/10.1007%2Fs10826-015-0124-8>.

²⁶ Randy Capps, Heather Koball, James D. Bachmeier, et al., *Deferred Action for Unauthorized Immigrant Parents: Analysis of DAPA’s Potential Effects on Families and Children*, MPI, 2016,

<http://www.migrationpolicy.org/research/deferred-action-unauthorized-immigrant-parents-analysis-dapas-potential-effectsfamilies>.

liability; the proposed rule will deter family members and others from serving as sponsors and joint sponsors.

In the proposed rule, DHS itself acknowledges multiple times that the new policy could cause a reduction in the number of immigrants granted an immigration benefit in cases where the intending immigrant is unable to submit a sufficient Affidavit.²⁷ DHS also indicates that provisions of the proposed rule would likely reduce the number of individuals who would be eligible to qualify as a sponsor who may execute an Affidavit and, as a result, may reduce the number of Affidavits executed using Form I-864.²⁸

The Administration has repeatedly attempted to restrict lawful family-based immigration to the U.S. When Congress rejected its proposal to implement a points-based system to limit family-based immigration, it pivoted to a series of efforts to achieve this goal through other means. For example, advisor Stephen Miller acknowledged to supporters that the temporary limits on family-based immigration imposed this spring, supposedly imposed to control COVID-19, were in reality the first step of an overall plan to restrict family-based immigration²⁹.

As mentioned above, the proposed rule would require sponsors to complete more burdensome paperwork, open up sensitive personal information to be shared with without a subpoena and potentially subject them to financial fraud. Instead of creating more red tape, fear, and log-jams in the immigration process, we should support family members and close contacts who want to step forward in support of the legal immigration process by serving as a sponsor.

In conclusion, RESULTS opposes the Affidavit of Support proposed rule.

If implemented, the rule would deter sponsors from playing a critical role that permits family members and close contacts to adjust status, ultimately reducing the number of immigrants who are able apply for and receive green cards.

RESULTS is a network of more than 115 chapters with over 650 active volunteers (and an additional 7,000 members in our e-mail action network) across the U.S., many of whom have lived experiences of poverty or are immigrants to the U.S. As an anti-poverty organization, RESULTS opposes this rule which will have a chilling effect that deters U.S. citizens and immigrants from using means-tested public benefits – like Medicaid and SNAP - that they are eligible for.

²⁷ Ibid. at 62468, 62454, 62453.

²⁸ Ibid at 62432.

²⁹ <https://www.nytimes.com/2020/04/24/us/politics/coronavirus-trump-immigration-stephen-miller.html>

Our comments include citations to supporting research and documents for the benefit of DHS in reviewing our comments. We direct DHS to each of the items cited and made available to the agency through active hyperlinks, and we request that these, along with the full text of our comments, be considered part of the formal administrative record on this proposed rulemaking.

Thank you for the opportunity to submit comments on the proposed rule. Please do not hesitate to contact me if you have any questions or need any further information.

Sincerely,



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