**Instructions on Using the 2021 Housing & Homelessness Public Charge Comment Template**

The material that follows is a template comment letter that focuses not including housing or homelessness assistance programs in a public charge determination, in response to the Department of Homeland Security’s (DHS) Advance Notice of Proposed Rulemaking (ANPRM) regarding the public charge rule. DHS published the ANPRM to seek broad feedback on the public charge ground of inadmissibility that will inform its development of a future regulatory proposal. It is not intended to be widely distributed in this form. Please do not share this content over a mass email list or post it in a public location. If you have questions about whether it can be shared with a partner organization, please contact us.

How to Submit your Comments

The template is designed to make it easy for your organization to generate your own comment letter to submit via [regulations.gov.](https://www.regulations.gov/document?D=USCIS-2010-0012-0001)[[1]](#footnote-1) Click on “comment now” and either enter your comment in the text box (must be fewer than 5000 characters) or upload your comments as a PDF. The deadline to submit your comments is **October 22, 2021**.

Include Your Own Original Content

The template includes content that we welcome you to use in your comments, as well as places to insert your own text, which we have highlighted in yellow. Comments that share most of the same content can be counted by the Department of Homeland Security as a single comment. Therefore, your comment letter will be most valuable if you ensure that **at least 30% of your comment letter** consists of **original content (approximately 620 words).**

Questions

If you have additional questions, please email Kate Walz at [kwalz@nhlp.org](mailto:kwalz@nhlp.org) or Xavier Arriaga at [xarriaga@nlihc.org](mailto:xarriaga@nlihc.org).

[DATE]

*Submitted via www.regulations.gov*

**U.S. Citizenship and Immigration Services**

**Department of Homeland Security**

**20 Massachusetts Avenue NW**

**Washington, DC 20529-2140**

Re: DHS- Docket No. USCIS-2021-0013; Comments on Public Charge Ground of Inadmissibility

I am writing on behalf of [your organization’s/agency’s name] in response to the Department of Homeland Security’s (DHS) Advance Notice of Proposed Rulemaking (ANPRM), published in the Federal Register on August 23, 2021, and its specific question on what public benefits should be considered under a public charge determination. [Your organization/agency name] continues to support clear access to critical and life-saving benefits, including housing benefits. We urge that these critical programs should not be considered and that DHS make efforts to more clearly communicate what benefits are or are not counted so that immigrant families know that they have access to these benefits without fear of retaliation.

[INSERT paragraph describing your organization/agency, its mission (if applicable), why this proposed rule and its implications are particularly urgent to you, and the expertise or background that you have on these and related issues, such as housing and homelessness. If you are a service or housing provider, consider including specific data on the populations you serve. If you are a state/local organization, consider including demographic information. If you cite data or studies, be sure to upload them as well, if possible, or, if not, to include a live link and ask that any cited materials be considered part of your comment.]

The 2019 “Inadmissibility on Public Charge Grounds” was a dramatic shift from decades of immigration policy that, even before being finalized, caused a significant negative impact on eligible families. The 2019 Public Charge rule was fundamentally un-American by unnecessarily restricting access to critical programs by considering under a public charge determination several additional programs, including the use of the Section 8 Housing Choice Voucher, Section 8 Project-Based Rental Assistance, and Public Housing programs, as well as Supplemental Nutrition Assistance Program, Medicaid, and parts of Medicare.

**The 2019 Rule harmed immigrant communities and had a broad chilling effect**

The 2019 Public Charge rule specifically targeted low-income immigrants, a population that already faces substantial barriers to housing. The Rule puts immigrants in an impossible bind: having to choose between accessing the supports they need to live safe and healthy lives or protecting their immigration status.

[Insert stories about individual client’s/tenant’s fear of public charge implications due to eligibility for or receipt of housing assistance, COVID-19 assistance (i.e., vaccinations, medical treatment, emergency rental assistance), or other public benefits]

For these reasons, it is imperative that any changes that DHS considers to the existing test for adjudicating public charge inadmissibility not have the effect of restricting or chilling access to any critical benefits programs including housing and homelessness assistance, and that the implementation of the rule works to address the chilling effects of the 2019 rule.

### Purpose and definition of public charge

1. How should DHS define the term “public charge”?

DHS should define public charge for inadmissibility purposes as a person who is “likely to become primarily and permanently reliant on the federal government to avoid destitution.”This would be consistent with the Congressional intent and historical understanding of public charge as applying to a narrow set of immigrants who are likely to become a “public charge” by being so in need of assistance that they were housed in almshouses and poorhouses for indefinite stays. It is also consistent with recent legal interpretations that have interpreted “public charge” to mean a person who is “unable to support herself, either through work, savings, or family ties.” Under this definition, reliance on the government should not be considered unless the cash assistance from the government is permanent and provided at a level that an individual can live on. DHS should not consider Medicaid – even for institutional long-term care – in a public charge determination.In addition, including any type of Medicaid benefit will confuse people and lead them to forego health care.

1. Provide an explicit list of covered and not-covered programs

The new rule should also identify and update a list of the programs that do not count to minimize the chilling effect, including specifically excluding programs funded completely by state, local, tribal and territorial governments, even when they provide cash assistance. The new rule should also exclude family members’ and sponsors’ use of benefits and make clear that benefits used by an applicant’s family members or sponsors do not count as factors in the applicant’s public charge test. The new rule should exclude any use of benefits by survivors of domestic violence and other serious crimes or exempt status, and by anyone during public emergencies. Finally, the new rule should specify that the use of benefits as a child or when in an exempt status will not be included in a public charge determination, nor will benefitsused when applying for exempt status, regardless of a person’s pathway to that status. DHS should propose that benefits received by children—whose long-term economic contributions are generally *bolstered* by childhood receipt of benefits—be excluded from consideration.

[Insert additional considerations/programs that would negatively impact your organization’s mission/goals if they were included in a public charge inadmissibility test]

1. Consider national laws and policies related to equity and anti-discrimination

When defining public charge, DHS should take into account two key national policies when promulgating the new rule: the Biden administration’s racial equity Executive Order requires federal agencies including DHS to promote equitable delivery of government benefits (including immigration benefits, housing, health, and nutrition benefits);  Section 504 of the Rehabilitation Act, which prohibits discrimination (regardless of national origin or U.S. citizenship) based on disability in programs conducted by federal agencies – including the Department of Homeland Security -- these protections exist regardless of national origin or U.S. citizenship.

**Housing stability is critical to getting families on a pathway to self-sufficiency and leads to better life outcomes.**

Tying the use of housing supports or homelessness assistance to a public charge determination could have been disastrous not only for that individual but for a whole family. When families struggle to find stable housing in the short term, it can lead to reduced opportunities and increased health problems for these [families in the long term](http://pediatrics.aappublications.org/content/141/2/e20172199).[[2]](#footnote-2) Studies have shown that unstable housing situations can cause individuals to experience increased hospital visits, loss of employment, and mental health problems.[[3]](#footnote-3) Having safe and stable housing is crucial to a person’s good health, sustaining employment, and overall self-sufficiency. These effects will be particularly prominent in children, many of whom are U.S. citizens, who are part of immigrant families. Research has shown that economic and housing instability [negatively impacts children’s cognitive development](https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF), leading to poorer life outcomes as adults.[[4]](#footnote-4)

Housing is the cornerstone of what every person needs to survive and thrive. It impacts every aspect of our lives— education, health, economic security, and more. Yet millions of people across the country struggle to afford housing. Today, one in four renters in America is spending more than half of their income on rent, and homelessness rates are rising in many communities across the country as growing numbers of people are unable to find an affordable home. The ongoing pandemic has shown how important it is for families to have a secure and safe place to isolate from the virus as well.

A robust body of research has shown that access to affordable housing has broad, positive impacts on families, seniors, people with disabilities, and the economy. Having safe and stable housing is crucial to a person’s health, sustaining employment, and overall self-sufficiency.

Children who live in a stable, affordable home enjoy better health and educational outcomes, greater access to economic opportunities, enjoy better mental and physical well-being and benefit from stronger communities.[[5]](#footnote-5) In fact, out of households currently receiving rental assistance, more than 40 percent include children.[[6]](#footnote-6) Housing assistance lifts about a million children out of poverty each year,[[7]](#footnote-7) and can improve a child’s chances for long-term economic mobility—one study finds that children in households receiving Housing Choice vouchers have higher adult earnings and a lower chance of incarceration.[[8]](#footnote-8)

[Insert stories illustrating why safe and affordable housing is critical for your clients or tenants.]

For these reasons, we specifically call upon DHS not to include any housing or homelessness assistance programs as a covered program and to make explicitly clear that these programs do not count towards a public charge determination.

[**Additional issues you’d like to raise.]**

[This would be a good place to talk about any other issues or concerns that you have on the public charge rule. If you have any personal or client stories about why an expansion of a future public charge rule like the 2019 rule would be harmful, please share them here.]

Thank you for the opportunity to submit comments on the advance notice of proposed rulemaking. Please do not hesitate to contact [FILL IN] to provide further information.

[Name]

[Title]

[Insert contact information and add a signature line if desired.]

1. https://www.federalregister.gov/documents/2021/08/23/2021-17837/public-charge-ground-of-inadmissibility [↑](#footnote-ref-1)
2. Megan Sandel et al., *Unstable Housing and Caregiver and Child Health in Renter Families*, 141 Pediatrics 1 (2018), <http://pediatrics.aappublications.org/content/141/2/e20172199>. [↑](#footnote-ref-2)
3. *See* Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, Center on Budget and Policy Priorities (October 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains>; *see also* Linda Giannarelli et al., *Reducing Child Poverty in the US: Costs and Impacts of Policies Proposed by the Children’s Defense Fund* (Jan. 2015), [http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPol iciesProposedbytheChildrensDefenseFund.pdf.](http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPol%20iciesProposedbytheChildrensDefenseFund.pdf.) [↑](#footnote-ref-3)
4. Heather Sandstrom & Sandra Huerta, The Negative Effects of Instability on Child Development: A research Synthesis (2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>. [↑](#footnote-ref-4)
5. Center on Budget And Policy Priorities, Chart Book: Economic Security and Health Insurance Programs Reduce Poverty and Provide Access to Needed Care (December 2019), available at: <https://www.cbpp.org/research/poverty-and-inequality/chart-book-economic-security-and-health-insurance-programs-reduce>. [↑](#footnote-ref-5)
6. Center on Budget And Policy Priorities, National and State Housing Fact Sheets & Data, HUD Rental Assistance with Children 2004-2015 (December 2019), available at: <https://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data>. [↑](#footnote-ref-6)
7. Liana E. Fox and Kalee Burns, U.S. Census Bureau, The Supplemental Poverty Measure: 2020 (September 2021), available at: <https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-275.pdf>. [↑](#footnote-ref-7)
8. Fredrik Andersson, John C. Haltiwanger, Et. Al, National Bureau of Economic Research, Childhood Housing And Adult Earnings: A Between-Siblings Analysis of Housing Vouchers And Public Housing (Revised September 2018), available at <http://www.nber.org/papers/w22721>. [↑](#footnote-ref-8)