



CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR  
MARTIN J. WALSH

December 04, 2018

*Submitted via [www.regulations.gov](http://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-2010-0012, RIN 1615-AA22, Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds

Dear Sir/Madam:

The City of Boston is writing to express serious concern with the October 10th Proposed Rule by the Department of Homeland Security, *Inadmissibility on Public Charge Grounds*.

After conducting an extensive impact analysis, the City of Boston has concluded that the proposed rule would severely harm the economic and social well-being of Boston. The projected impact is complex and far-reaching. We project the impact to include a potential loss of \$500 million to Boston's economy annually in lost labor and economic activity, in addition to public health challenges that will affect thousands of households.<sup>1</sup>

Currently, under Section 212(a)(4) of the Immigration and Nationality Act (INA), a person seeking admission to the United States or seeking to adjust their immigration status to legal permanent residency (i.e. green card) or a nonimmigrant visa is considered "inadmissible" (i.e. barred from entry or denied adjustment of status) if that person likely to become a "public charge." For the purposes of determining

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<sup>1</sup> *Impact of Proposed Federal Immigration Rule Changes on Boston: Public Charge Test for Inadmissibility.* October 15, 2018. Boston Planning and Development Agency.

All data presented in these comments references a local impact analysis conducted by the City of Boston, the Boston Planning and Development Agency and the Boston Public Health Commission. The full text of the report can be found at: <http://www.bostonplans.org/getattachment/e856c564-bf0f-47d4-9a44-75b430903f82>

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admissibility, a “public charge” refers to an individual who is likely to become primarily dependent on the government for subsistence.

The public charge grounds of inadmissibility is currently determined by a “totality of the circumstances” calculus. This means that the USCIS or Consular officer adjudicating the merits of an application for adjustment of status or admission to the United States must consider both positive and negative factors when determining the likelihood that an immigrant becomes a public charge. These factors include, but are not limited to, family status, age, financial status, and education/skills. Different factors and attributes are weighted negatively or positively in this calculus, with certain factors representing heavily weighted strikes against an applicant and others representing factors that, in most cases, will override unfavorable elements of an application. Currently, the receipt of public cash assistance for income maintenance (i.e. Temporary Assistance for Needy Families or TANF) or institutionalization for long-term care at the government’s expense are the only public benefits that are considered as negative factors in the public charge calculus. Currently, a properly-filed, non-fraudulent sponsor’s affidavit of support is often sufficient to overcome negative public charge considerations. As a result, it is a forward-looking test not only focused on the past.

The new rules proposed by the Department of Homeland Security would allow officers to consider an individual’s use of a wider array of means-tested benefits programs in this determination, including subsidized medical insurance (e.g. Medicaid), the Supplemental Nutrition Assistance Program (SNAP), and housing assistance (primarily Section 8). Additionally, the proposed rule alters the weighting system used in the test, making the sustained use of these public benefits and other factors heavily weighted negative strikes against an applicant. As a result, use of these programs, which often provide access to both vital nutritional and other health-related resources, may jeopardize the ability of immigrants to adjust their immigration status in the future. For those individuals who continue use of public benefits programs, being denied an adjustment of status on these grounds could culminate in a loss of immigration status completely. These individuals would, therefore, become removable.

We estimate that approximately 19,400 foreign-born, non-citizen residents of Boston are both eligible for an adjustment of status where the public charge test is applied and have one or more of the heavily weighted negative factors identified in the proposed changes, including receipt of means-tested public benefits. Assuming that these individuals are unable to adjust their immigration status as result of their continued use of public benefits, subsequently become removable, and are consequently deported or choose to leave the country, the City of Boston would face a severe economic burden. Boston employers could lose approximately 12,000 workers if affected immigrants lose employment authorization, are detained and deported, including workers who are Boston residents and those who commute into jobs in the city. These workers support the jobs of an additional 5,600 workers. Boston would lose a significant amount of high skill and academic capital. Nearly 4,000 affected Boston residents are college or university students, and another 1,800 are college-educated workers. The

Boston economy would also lose the purchasing power of the 11,800 affected Boston residents who are not currently employed or who work outside of Boston. The affected immigrants who live in Boston or commute into Boston contribute \$500 million annually to the income of Boston residents through direct, indirect, and induced economic impacts.

The proposed rule would also pose a grave public health challenge to the City of Boston. Public benefits such as food stamps and Medicaid are important safeguards to public health. Just over 13,000 adults and 1,600 children currently receiving Medicaid may disenroll for fear of jeopardizing their immigration status. Nearly 8,000 adults and 1,000 children who currently receive food stamps may be reluctant to accept these public benefits for the same reason. We expect that disenrollment from public insurance will result in increased uncompensated care costs to local hospitals and increased use of emergency care. The City of Boston would lose between \$14 million and \$57 million annually as a result, depending on the extent of disenrollment.

The public health impact extends beyond the calculable monetary costs. The proposed rule forces families to decide between health and maintaining status, a situation where children always lose out. Decreased family participation in medical and nutrition programs will result in worse maternal and childhood health outcomes. The ramifications of such a shock may be felt long into the future. Poor early childhood health is linked to poor long-term educational and social outcomes and thus the proposed rule will likely have a lasting impact on Boston's immigrant children, of which thousands are citizens, and will likely create greater long-term stress on the economy. Furthermore, the discontinuation of treatment due to disenrollment from public insurance may result in the spread of communicable diseases. This risk is especially high among those individuals with health conditions that require long-term medically assisted management such as HIV/AIDS.

Additionally, the proposed rule will likely separate Boston families. Of the 19,400 Boston residents who would possibly face deportation, nearly 2,000 are minor children, almost 6,000 are married, and about 6,000 are caring for minor children. Not only will separation cause immeasurable suffering, but it will place a greater burden on city resources.

Immigrant inclusion is a foremost priority of the Boston Mayor's Office. The proposed rule would impede efforts to integrate immigrants into the economic, civic, social, and cultural life of our city. The proposed change would damage longstanding efforts to ensure immigrants feel welcome to access necessary services, as a result, further isolating an already highly vulnerable population. Moreover, many immigrants and immigrant families who are otherwise eligible may decide to forgo services and public benefits out of fear of real or perceived consequences. Boston is already seeing the first signs of this chilling effect.

To be clear, the City of Boston takes issue with the premise of a “public charge test” itself, which is founded in part on the erroneous assertion that immigrants are an economic drain on the United States. On the contrary, this proposed rule would likely lead to the exclusion or expulsion of immigrants who would contribute to the U.S. economy and thus not only represents bad public policy, but also irresponsible fiscal decision-making. Further, the notion that a non-citizen’s entry to or ability to remain in the country should rest on their use of public programs and services for which they are eligible is in direct contravention of fundamental American principles. Equality, liberty, and freedom to thrive are maligned by the existence of a public charge test at all, to say nothing of this proposal to make that test more restrictive and repressive.

For the reasons discussed above, including our assertion that this proposal flouts our democratic values, we strongly oppose the proposed rule change on public charge grounds for inadmissibility. The Department of Homeland Security should not alter this rule.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martin J. Walsh", followed by a horizontal line.

Martin J. Walsh  
Mayor  
City of Boston