



State of California  
Office of the Attorney General

XAVIER BECERRA  
ATTORNEY GENERAL

May 10, 2018

**Via electronic delivery and certified U.S. mail**

The Honorable Mick Mulvaney, Director  
Office of Management and Budget  
725 17<sup>th</sup> St. NW  
Washington, DC 20503  
[Mabel\\_E\\_Echols@omb.eop.gov](mailto:Mabel_E_Echols@omb.eop.gov)

The Honorable Neomi Rao, Administrator  
Office of Information & Regulatory Affairs  
Office of Management and Budget  
725 17<sup>th</sup> St. NW  
Washington, DC 20503  
[Caroline.E.Moore@omb.eop.gov](mailto:Caroline.E.Moore@omb.eop.gov)

RE: Proposed Public Charge Regulation (RIN 1615-AA22)

Dear Director Mulvaney and Administrator Rao:

On behalf of the State of California, I write to express my deep concern regarding possible changes to the *Inadmissibility and Deportability on Public Charge Grounds Rules*, which have been proposed by the Department of Homeland Security (DHS) and are currently under review by the Office of Management and Budget (OMB).

OMB states that the proposed changes are not economically significant; however, through our analysis of reports and a draft leaked regulation, we estimate that the potential fiscal harm to our State is actually quite profound, both for California residents and for State agencies serving those residents. As California's Attorney General, I have a constitutional duty to protect the 40 million residents of California by protecting their health and safety, and defending the State's laws. Cal. Const., art. V, § 13. As such, I have several concerns with the draft regulation which, if enacted, would have substantial detrimental impacts on Californians. Specifically, the proposed regulation would significantly undermine our State's framework for protecting and promoting public health, safety, education, and workforce development, would negatively impact many of our residents and their families' health and wellbeing, and would impose substantial direct and indirect costs on the State.

California has made great strides in expanding healthcare access and coverage; we have adopted a number of laws that make many benefits available to all residents of the State. California agencies have designed health, nutrition, and education programs to support all working families, regardless of immigration status, as part of the State's investment in the future health of California's residents. The proposed regulation would dramatically and adversely

change the criteria for determining whether immigrants are admissible to the United States, eligible for adjustment of status, and subject to deportation. These changes will reduce California benefit programs' effectiveness by discouraging immigrants from using them as intended. All California residents—native and foreign-born—deserve to be able to access healthcare and other programs for which they are eligible, such as the Women, Infants and Children program, or CalFresh (California's Supplemental Nutrition Assistance Program). And they should be able to take advantage of these benefits without fear that they are jeopardizing their own or their family members' immigration status by doing so.

Under these proposed regulation, of all states, California stands to lose the most. California is fortunate to be home to more than 10 million immigrants from around the world, the largest immigrant population in the United States.<sup>1</sup> In fact, 25% of the 43.2 million foreign-born residents of our country live in California.<sup>2</sup> Roughly 49% of California immigrants are naturalized U.S. citizens, 26% are legal permanent residents, and 25% are undocumented.<sup>3</sup> What's more, 49% of California children have at least one immigrant parent.<sup>4</sup> Of these children, over 4 million are U.S. citizens, 2 million of whom are enrolled in Medi-Cal (California's Medicaid program) and the Children's Health Insurance Program (CHIP)<sup>5</sup>; they represent 25% of all CHIP enrollees in the country.<sup>6</sup> These numbers make clear that the draft proposed regulation will impact millions of individuals in California, their families, and their communities.

Beyond this proposal's impact on U.S.-citizen children entitled to Medi-Cal and CHIP, millions of Californians live in families with mixed immigration status, and are entitled to public benefits to meet their critical life needs such as food and medical care. Changes in the criteria for determining admissibility, adjustment of status, and deportation thus affect large numbers of people. The public benefit programs at issue are complex and difficult to understand; changing them in the manner that DHS has proposed will undoubtedly result in confusion and a chilling effect on the willingness of immigrants and their families to access the benefits to which they are entitled, including both naturalized and U.S.-born citizens. In short, this draconian regulation, if

<sup>1</sup> Joseph Hayes, *Immigrants in California*, Public Policy Institute of California (Jan. 2017) [http://www.ppic.org/content/pubs/jtf/JTF\\_ImmigrantsJTF.pdf](http://www.ppic.org/content/pubs/jtf/JTF_ImmigrantsJTF.pdf).

<sup>2</sup> Gustavo López and Kristen Bialik, *Key findings about U.S. immigrants*, Pew Research Center (May 2017) <http://www.pewresearch.org/fact-tank/2017/05/03/key-findings-about-u-s-immigrants/>.

<sup>3</sup> *Immigrants in California*, *supra* note 1.

<sup>4</sup> *Id.* In some congressional districts in the San Francisco Bay Area and greater Los Angeles, more than 75% of children have at least one immigrant parent. *See also* KidsData, *Half of CA children have immigrant parents* (Feb. 10, 2017) <http://www.kidsdata.org/blog/?p=7804>.

<sup>5</sup> Samantha Artiga and Anthony Damico, *Nearly 20 Million Children Live in Immigrant Families that Could Be Affected by Evolving Immigration Policies*, Kaiser Family Foundation (April 18, 2018) <https://www.kff.org/disparities-policy/issue-brief/nearly-20-million-children-live-in-immigrant-families-that-could-be-affected-by-evolving-immigration-policies/>.

<sup>6</sup> Medicaid.gov, *FY 2016 Number of Children Ever Enrolled in Medicaid and CHIP* (2016) <https://www.medicaid.gov/chip/downloads/fy-2016-childrens-enrollment-report.pdf>.

finalized, would have a devastating effect on the children of California, their families, and their communities, including other pupils in their schools or children in their daycare centers.

The fiscal impact of the draft proposed regulation also extends to California's healthcare delivery system and public health infrastructure. California benefits greatly from immigrants' access to healthcare benefits, including expanded access to Medi-Cal and subsidies for purchase of health insurance through Covered California, the State's health insurance Exchange. Increases in healthcare coverage help decrease costs incurred by uninsured residents. For example, as California's uninsured rate shrank from 16.4% in 2013 to 8.5% in 2015, the cost of providing uncompensated care at hospitals shrank from \$20.5 billion to \$6.7 billion, a decrease of 67%.<sup>7</sup> If immigrants decline to participate in public health insurance programs for which they are eligible due to fear (justified or not) about the adverse consequences to their immigration status, they will return to reliance on less cost-effective emergency room or charity care, or simply forego needed healthcare altogether, creating serious public health risks and attendant costs. Similarly, California's investments in cost-effective public health initiatives like childhood immunization will be weakened if federal rules discourage immigrant families from participation.

In addition to direct costs, the proposed regulation would force substantial administrative costs upon California. California and its state and local agencies would have to devote significant time and resources to revising guidelines and consumer information in multiple languages for an undetermined number of public benefit programs. Consumer-facing agencies would have to devote significant time and resources to responding to a flood of inquiries from concerned residents. OMB must consider all of these factors in its analysis of the proposed public charge rule.

In order to discuss these concerns in greater detail and gain an understanding of the reasons for your consideration of these revisions, I request that OMB meet with my staff as soon as possible, and prior to any publication of the proposed regulation. I understand that OMB regularly convenes such meetings with interested parties. Please contact my senior advisor, Melanie Fontes Rainer at [Melanie.Rainer@doj.ca.gov](mailto:Melanie.Rainer@doj.ca.gov) or 510-879-1981 to arrange this meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Xavier Becerra', with a large, stylized loop at the end.

XAVIER BECERRA  
Attorney General

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<sup>7</sup> *Key Facts about the Uninsured Population*, Kaiser Family Foundation (Nov. 29, 2017) <https://www.kff.org/uninsured/fact-sheet/key-facts-about-the-uninsured-population/>.

Uncompensated care costs derived from Hospital Quarterly Financial and Utilization reports to the California Office of Statewide Health Planning and Development. Available at <https://www.oshpd.ca.gov/HID/Hospital-Quarterly.html>.