



*Protecting Immigrant
Women and Girls
Fleeing Violence*

December 10, 2018

Submitted via www.regulations.gov

U.S. Department of Homeland Security
Citizenship and Immigration Services
Office of Policy and Strategy
Samantha Deshommnes, Chief
Regulatory Coordination Division

Re: Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds; Docket No. USCIS-2010-0012, RIN 1615-AA22

Dear Chief Deshommnes:

The Tahirih Justice Center (Tahirih) is pleased to submit the following comments in response to USCIS' Proposed Rulemaking regarding Inadmissibility on Public Charge Grounds, Docket No. USCIS-2010-0012, RIN 1615-AA22, published in the Federal Register on October 10, 2018.

I. Introduction

Tahirih is a national, nonpartisan policy and direct services organization that has assisted over 25,000 immigrant survivors of gender-based violence over the past twenty-one years. Our clients endure horrific abuses such as human trafficking, domestic violence, sexual assault and other crimes.

By law, those deemed likely to become a "public charge" by the Department of Homeland Security (DHS) are barred from permanent residency. To determine if an applicant is likely to become a public charge, DHS currently considers applicants' use of certain benefitsⁱ as a factor. Due to the dynamics of gender-based violence, immigrant survivors such as our clients are often indigent and rely heavily on public benefits to get back on their feet after fleeing abusive homes with their children. Fortunately, Congress recognized this reality by expressly exempting survivors from the "public charge bar" to lawful permanent residence if they apply as asylees and through laws including the Violence Against Women Act (VAWA) and Trafficking Victims Protection Act (TVPA).

For a variety of reasons, not least of which may be manipulation by abusers, survivors might pursue permanent residence through other channelsⁱⁱ that do subject them to the bar. Yet, for any survivor, regardless of visa category, public benefits can serve as a critical lifeline. Ready access to benefits is especially essential for those whose abusers deliberately keep them in a perpetual state of isolation and economic dependence. USCIS' mere proposal to consider applicants'

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use of a broader range of benefits against them is already deterring their use by survivors, including both those who are and who are not subject to the bar.

As an organization that serves immigrant survivors of gender-based violence, Tahirih firmly opposes USCIS' proposal and we urge USCIS to abandon it in favor of policies that encourage all indigent survivors to get the help they need to escape violent homes.

II. Survivors of gender-based violence are overwhelmingly indigent as a result of abuse and will be disproportionately harmed by the proposed rule.

A hallmark of domestic violence is perpetrators' use of both acute and chronic threats of harm to keep survivors in a state of isolation, poverty, and economic dependence. Abusers condition survivors to expect brutal retaliation for either applying for a work permit, or for seeking employment if already eligible to work. Perpetrators are commonly known to hold survivors' documents hostage, further preventing them from securing employment as a logistical matter and - by design - all but guaranteeing their dependence on them indefinitely. The paralysis survivors experience is compounded when children are involved, especially when the only alternative to a violent home is homelessness.

Survivors who are authorized to work face additional challenges to obtaining and maintaining employment. They might frequently or abruptly miss work due to the violent, unstable circumstances at home, making them vulnerable to termination by employers. With a limited ability to earn income independently and consistently, public benefits are essential to helping survivors escape abuse and start rebuilding their lives. As explained further below, the proposed rule is ill-conceived as survivors should not be forced to 'choose' between a violent home and homelessness to protect their Green card eligibility.

III. The proposed rule is already having a "chilling effect" on survivors who are forgoing critical services to avoid risking denial of permanent residence.

The chilling effect on survivors' use of benefits is already in full force, even though the proposed rule has yet to go into effect. Mere issuance of the proposed rule has rendered even survivors who are exempt from the "public charge" bar more vulnerable to ongoing abuse with no end in sight. WIC, a program that provides nutrition support to infants and pregnant women, reports that local offices throughout the country have received "panicked calls from both documented and undocumented immigrant families demanding to be dropped from the[ir] rolls" due to news about the new public charge rule. Up to a 20% drop in enrollment is being reported by agencies in 18 states, who largely attribute this change to the new policy.ⁱⁱⁱ If a *proposed* policy can have such a dramatic effect on traumatized immigrant mothers seeking life-saving assistance for themselves and their infant children, then the number of individuals who forgo much-needed services will undoubtedly skyrocket if the rule is finalized.

One Tahirih attorney reported that over the past month, every caller she spoke with expressed concern about renewing benefits, regardless of whether they are subject to the public charge bar. Another indicates that even clients who are not subject to the bar, whose children

clearly qualify for and desperately need benefits in order to eat and receive medical care, are debating whether to-reapply once their benefits expire.

In one case, a client, Emma*, was the victim of sex trafficking by her husband, a US citizen. She was finally able to escape to a women's shelter with her two young sons in April 2018. When her time at the shelter was nearing an end, the shelter offered Emma housing assistance through its program that covers rent for a specified amount of time, until survivors can get back on their feet. Emma contacted Tahirih for legal help and explained to her attorney that she would not participate in the housing assistance program because she feared it would jeopardize her immigration case. Despite assurances that as a T visa and VAWA Self-petitioner, Emma was exempt from the public charge rule, Emma was willing to become homeless with her two children, and potentially return to sex slavery to avoid risking deportation. Over the course of several months, Emma's attorney and caseworker were finally able to convince her that she should accept the shelter's help. She is now living in housing subsidized by the women's shelter and working toward rebuilding her life free from violent sexual exploitation.

Sarah* was granted asylum based on severe sexual abuse. She received SNAP, but because of the proposed public charge rule, she is extremely hesitant to re-apply for herself and her two children who will soon be joining her here. Sarah fought so hard to win asylum that she would rather she and her children go hungry upon their arrival in the US, than risk forcible return to persecution in their home country. Sarah's attorney continues to try to convince her that fortunately, they are exempt from the rule as asylees, but she has yet to make a decision about how to proceed.

The chilling effect is so potent that it is extending even beyond the fear of using public benefits. About a month ago, a woman contacted Tahirih in search of legal help, and asked if we receive government grants. She was hesitant to speak with us because she feared that DHS might consider receipt of our services as the use of public benefits, and that her Green card application would someday be denied as a result.

IV. Policies that discourage the use of public benefits are detrimental to both survivors and society as a whole.

a. Harm to survivors

The harm inflicted by the proposed "public charge" rule will be widespread - among survivors of violence, US citizens, and those with lawful status within households where family wish to seek status in the future. For example, the rule might deter a US citizen survivor of sexual assault from accessing benefits to help alleviate physical and psychological trauma, for fear that her actions could be used against a family member someday.

As explained above, perpetrators of gender-based violence commonly manipulate survivors into remaining isolated and financially dependent on them. Access to housing and food assistance, mental and medical services, and other benefits is vital to informing survivors' decision-making, and in lifting them out of violence and supporting their healing. Health care alone, including prenatal care, is particularly critical for survivors. Survivors and their children face dire threats to their health

and safety both acutely and over the long-term. According to the World Health Organization, common medical issues for survivors of domestic violence include chronic pelvic, back, and abdominal pain, memory loss, difficulty walking, headaches, irritable bowel syndrome, depression, anxiety, sleep and eating disorders, and gastrointestinal disorders among others.^{iv}

If survivors are too fearful of using benefits, they will remain trapped within abusive homes where perpetrators can continue to abuse them with impunity. The role of economic resources in promoting women's well-being and safety from violence cannot be overstated.^v

b. Harm to society

Society as a whole will also suffer as a result of the proposed rule. According to Zach Hennessey, Vice President of Programs and Services at the largest WIC provider in New York State, "One way or another society is going to pay for this...It's very expensive for a baby in the NICU. It's very expensive when a child's developmental needs aren't met, or there's a severe maternal morbidity event."^{vi}

No sound policy should have the highly undesirable effect of sabotaging federal and state assistance programs for vulnerable potential recipients. Housing instability overburdens crisis response and public safety systems, and leads to more incidence of debilitating medical conditions and emergency room visits. The proposed rule will exacerbate and prolong child poverty and its accompanying, long-term consequences. Poverty impacts children's educational and eventual job success, family strength, and the ability of individuals to meaningfully invest in their communities. By DHS' own admission, the rule has the potential to "*decrease disposable income and increase the poverty of certain families and children, including U.S. citizen children.*"^{vii}

V. For some survivors, denial of permanent residence and deportation means loss of child custody to a violent abuser.

The 'choice' to risk eventual deportation in order to access public benefits in the short term is an untenable one for many survivors. Deportation is devastating for mothers who fear loss of custody of their child upon deportation to a violent abuser. In the past two weeks, Tahirih received two calls from women who explained that their abusers threatened to have them deported, and to have their children taken away from them. One client, Rachel* from Central America, is battling for custody of her five US citizen children despite the fact that her abuser is extremely violent. The abuse she survived includes punching, choking, rape, and imprisonment for days without food. Rachel's abuser is now relentlessly pursuing custody of their children and trying to get her deported to punish her. If Rachel is deported, she will face further trauma by being separated from her children.

VI. Conclusion

For the reasons described above, we urge DHS to abandon this proposal consistent with its own view that it will likely lead to instability for families. We are gravely concerned about the impact of the rule on families which include survivors of violence and their children who are already

traumatized and in desperate need of help. No law or policy should categorically discourage survivors from accessing critical, life-saving services and should instead aim to do the opposite.

We look forward to your detailed feedback on these comments, and please contact me at irenas@tahirih.org or 571-282-6180 for additional information.

Respectfully,



Irena Sullivan
Senior Immigration Policy Counsel

*Pseudonym

ⁱ Currently, only the use of cash assistance and/or government-funded long-term institutional care count against an applicant.

ⁱⁱ For example: family or employment-based visas, diversity visa applicants, etc.

ⁱⁱⁱ <https://www.politico.com/story/2018/09/03/immigrants-nutrition-food-trump-crackdown-806292>

^{iv} <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>

^v See <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>; Eleanor Lyon, *Poverty, Welfare and Battered Women: What Does the Research Tell Us?* National Electronic Network on Violence Against Women 1 (Dec. 1997).

^{vi} See FN iii.

^{vii} <https://www.regulations.gov/document?D=USCIS-2010-0012-0001>