

12/16/2025

Kristi Noem,  
Secretary, U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services (USCIS)  
5900 Capital Gateway Drive, Camp Springs, MD 20746

**RE: Public Charge Ground of Inadmissibility**

Dear Ms. Noem,

The Center for Racial and Disability Justice (CRDJ) at the Northwestern Pritzker School of Law is committed to advancing the rights, dignity, and collective liberation of disabled people, particularly those at the intersections of race, disability, class, gender, and migration. CRDJ works through research, policy analysis, community partnerships, and strategic advocacy to challenge the structural forces that marginalize disabled people and to build futures rooted in equity, belonging, and self-determination. Our work is grounded in empirical research and the practical insights of disabled people whose lives are directly shaped by federal programs and administrative decision-making.

We submit this comment in response to the Department of Homeland Security’s Notice of Proposed Rulemaking (NPRM) titled “Public Charge Ground of Inadmissibility” ([DHS Docket No. USCIS-2025-0304](#)), issued November 19, 2025. The proposed rule would rescind the 2022 public charge regulation and replace it with a broader, less defined discretionary framework for determining whether noncitizens are “likely at any time to become a public charge.”

We comment because the public charge ground of inadmissibility directly affects Americans with disabilities, immigrant families that include U.S. citizens, and disabled noncitizens who are navigating lawful immigration pathways. These impacts shape health outcomes, household economic stability, long-term care decisions, and family unity.

Our concerns arise from three core principles that are practical, evidence-based, and statutory in nature:

- **Impact on Disabled Individuals and Families:** Potential effects on access to essential health and support services.
- **Risk of Renewed Chilling Effects:** Increased confusion and decreased benefit participation due to reduced regulatory clarity.

- **Need for Clear and Consistent Standards:** Ensuring guidance aligns with statutory factors and prevents unintended disparate impacts.

## BACKGROUND

The public charge ground of inadmissibility has been part of U.S. immigration law for more than a century, historically rooted in assessments of whether a noncitizen might require government support. Over time, the interpretation and implementation of this provision have shifted significantly, often reflecting broader social and political attitudes toward poverty, disability, and migration.

For most of the late 20th and early 21st centuries, public charge determinations operated under a relatively stable framework centered on a “totality of the circumstances” analysis. Under longstanding guidance, formalized in the 1999 Field Guidance, only two types of benefits were relevant to a public charge determination: Cash assistance for income maintenance, and long-term institutionalization at government expense.

This approach remained in place until 2019, when DHS issued a final rule that expanded the definition of public charge to include a broader set of benefits and imposed new, heavily weighted factors related to health, disability, and income. This rule led to widespread confusion, fear, and declining participation in essential programs, even among U.S. citizens and those not subject to the public charge test.

In 2022, DHS rescinded the 2019 rule and replaced it with a regulation designed to restore clarity and reduce harmful chilling effects. The 2022 rule reaffirmed the narrower definition of public charge benefits and reiterated that disability alone is not a basis for a negative determination. It provided clear definitions, consistent guidance, and guardrails intended to promote predictable adjudication.

The current proposal aims to rescind the 2022 regulation and remove the definitional framework it established. DHS states that the 2022 rule is “unduly restrictive” and may limit officers’ ability to make accurate assessments. The proposal would return to a broader, less-defined discretionary approach, with policy guidance to be issued later to shape implementation.

In effect, the proposed rule represents a significant shift away from a regulatory model focused on clarity and harm reduction, and toward one that relies heavily on adjudicator discretion without detailed regulatory parameters. This shift has substantial implications for disabled people, mixed-status families, and communities already affected by barriers to healthcare, long-term services, and essential supports.

CRDJ understands this proposal as an effort to re-open the public charge framework and redefine the boundaries of officer discretion at a time when many families remain uncertain about how immigration and public benefits policies intersect.

## IMPACT ON DISABLED INDIVIDUALS & FAMILIES

The proposed rescission of the 2022 public charge regulation has significant implications for disabled individuals, their families, and households that include disabled U.S. citizens. Disabled people rely on a range of health, nutrition, income-support, and long-term services programs to maintain basic functioning, participate in community life, and avoid institutionalization. Changes to public charge policy therefore reverberate far beyond immigration adjudications. They influence whether families feel safe accessing medically necessary supports and whether disabled people can remain in stable, community-based settings.

### Essential Healthcare & Support Services Harder to Access

Disabled individuals are disproportionately likely to use programs such as Medicaid, SNAP, and housing supports because these services fill gaps created by disability-related needs, limited access to employer-sponsored insurance, and persistent barriers to employment. These programs are not indicators of dependency but of necessity.

A return to a less-defined discretionary framework raises the risk that families will perceive these programs as jeopardizing immigration status, even when they are legally permitted to use them. For disabled people, losing access to these supports can mean:

- Disruptions to medical care and medication management
- Reduced access to personal care and home- and community-based services
- Increased risk of hospitalization or institutional placement
- Loss of stability that affects employment, schooling, and caregiving arrangements

The consequences are not speculative. They are well-documented in research on prior public charge policy changes [1-12]. This includes DHS itself, which found evidence showing widespread confusion, declines in program participation, and increased hardship linked to the 2019 rule (See [DHS 2022 Final Rule, 87 Fed. Reg. 55472–55604](#)). These system-level disruptions also extend beyond individuals to entire households.

### Mixed-Status Families Experience Heightened Vulnerability

Millions of U.S. households include both citizens and noncitizens [13]. When a disabled person in the household relies on essential programs, even unrelated policy changes can affect family decision-making. Under past public charge shifts, mixed-status families, especially those including disabled children or elders, reported avoiding services that were critical for health, nutrition, or daily care [12].

The proposed rule is likely to rekindle similar fears because it removes the certainty provided by the 2022 definitions, it signals a broader interpretation of what may count as a negative factor, and it increases the perception that health status or disability-related supports could influence immigration outcomes.

These ripple effects are particularly concerning for families managing significant caregiving responsibilities, where stability in services is crucial to maintaining employment, education, and

housing. When families attempt to compensate for these service gaps, the impacts shift onto caregivers.

### Increased Caregiver Strain & Destabilization of Support Networks

When disabled family members lose access to the services they need, or when families withdraw from programs out of fear, the burden shifts to unpaid caregivers, often parents, spouses, or extended family members. These caregivers are disproportionately women of color, many of whom already navigate limited workplace flexibility and economic insecurity [14-17].

Public charge policies that prompt families to forego supports can:

- Increase caregiver burnout and health strain
- Reduce household income when caregivers must leave the workforce
- Undermine children's educational and developmental supports

Stable access to services is essential not only for disabled individuals, but for the well-being of entire family systems.

### Exacerbation of Institutionalization Risks

Long-term institutionalization at government expense remains one of the few forms of disability-related support explicitly referenced in public charge determinations as a potential negative factor. This is particularly concerning given the longstanding institutional bias within Medicaid and disability service systems, which have historically made institutional care easier to access and more consistently funded than home- and community-based services [18-20]. As a result, institutional placement is often driven by system constraints rather than individual choice or need.

The 2022 rule sought to reduce the deterrent effect this dynamic created by clarifying how disability-related needs and service use should be understood in public charge determinations. The proposed rescission reintroduces ambiguity about how institutional care and disability-related supports may be weighed, compounding existing structural incentives toward institutionalization.

When families fear that seeking community-based supports might trigger immigration scrutiny, they may avoid services altogether. In a system already biased toward institutional care, this avoidance increases the likelihood that preventable health or support gaps escalate into crises that result in institutional placement. For disabled individuals, institutionalization is not only more expensive for states but also undermines autonomy, safety, and quality of life. Clarity in public charge standards is therefore vital to counteracting institutional bias and preventing unnecessary or avoidable institutionalization [21-24].

### Intersectional Inequities Deepen Harm

Disabled immigrants of color often experience compounded barriers to healthcare access, public benefits, employment, and housing [25]. Policy changes that introduce uncertainty into safety-net programs therefore fall hardest on communities already navigating systemic

discrimination, economic marginalization, complex caregiving arrangements, and limited access to linguistically or culturally appropriate information. Even policies that are facially neutral can produce deeply unequal outcomes when layered onto these existing inequities. Taken together, these impacts demonstrate the critical importance of clear, predictable public charge standards to safeguard the health, stability, and long-term well-being of disabled individuals and their families.

## RISK OF RENEWED CHILLING EFFECTS

The proposed rescission of the 2022 public charge regulation also raises the risk of renewed and widespread “chilling effects” (i.e., situations in which individuals or families avoid public benefits they are legally permitted to use due to fear, confusion, or misunderstanding). These effects are well documented in both federal analyses and independent research. During previous policy shifts, even the perception that benefit use might negatively affect immigration status caused significant declines in Medicaid, SNAP, WIC, and other essential programs, including among U.S. citizens and noncitizens who were not actually subject to public charge determinations [1-12].

Given this history, the proposed return to a broader, less-defined discretionary framework is likely to recreate similar patterns of avoidance, with far-reaching consequences for health, economic stability, and long-term well-being.

### Uncertainty Drives Disenrollment

Families respond more to uncertainty than to the actual technical requirements of public charge. Even small gaps in clarity lead families to withdraw from essential programs out of caution. By removing the clear definitions established in the 2022 rule, the proposed rescission re-creates the ambiguity that previously triggered widespread fear and precautionary disenrollment.

### Chilling Effects Spread Beyond Those Covered

Chilling effects reach far beyond the noncitizens formally subject to public charge determinations. U.S. citizen children experienced some of the sharpest declines in benefit use during the previous policy shift, and even refugees, humanitarian entrants, and exempt populations reported avoiding services. Mixed-status households and limited-English-proficient communities are especially vulnerable to this broader climate of fear.

### Reduced Participation Harms Public Health & Stability

When families avoid essential programs, the consequences extend beyond individual households; leading to increases in uninsurance, delayed preventive care, food insecurity, and avoidable health crises during periods of heightened public charge confusion. These system-level harms strain schools, hospitals, and state Medicaid programs, and disrupt the continuity of care needed to maintain population-level health and stability.

### Lack of Clear Standards Fuels Misinformation

The 2022 rule helped mitigate chilling effects by providing specific, accessible definitions that families, service providers, and community organizations could rely on. Removing these definitions without an equally clear replacement opens the door to misinformation, particularly in communities where legal guidance is uneven or linguistically inaccessible. In such environments, families often default to avoiding programs altogether, even when doing so jeopardizes health and stability.

In short, renewed chilling effects are a predictable and well-documented consequence of unclear or shifting public charge policy. By removing established definitions and expanding discretion, the proposed rule is likely to reproduce the widespread avoidance of essential programs seen during the previous rulemaking cycle, undermining public health, program integrity, and community stability. Clear, stable guidance is therefore essential not only for immigrant families, but for the effective functioning of state and federal programs charged with ensuring public health and economic stability.

### NEED FOR CLEAR & CONSISTENT STANDARDS

Clear, consistent public charge standards are essential for predictable adjudication, effective communication with immigrant communities, and the orderly functioning of public health and safety-net systems. The 2022 rule provided families, service providers, and adjudicators with concrete definitions and program-specific guidance, which helped reduce confusion and restore trust. The proposed rescission removes these guardrails without providing an equally detailed replacement, creating significant risks for both immigrant families and the agencies responsible for implementing federal benefits and immigration law.

### Predictability Supports Fair & Accurate Decision-Making

Adjudicators rely on clear standards to ensure that public charge determinations are consistent across cases, regions, and offices. When definitions are ambiguous or left largely to individual discretion, determinations can vary widely, even among applicants with similar circumstances. Such variability increases the likelihood of inequitable outcomes and undermines confidence in the integrity of the adjudication process. Clear, operational definitions reduce this risk by creating a shared baseline for decision-making.

### Protections Needed to Prevent Disability from Being Misinterpreted

The *Immigration and Nationality Act* (INA) requires officers to consider factors such as health, age, and financial resources, but it does not direct them to treat disability as evidence of future dependency. Without clear regulatory parameters, however, disability-related needs (e.g., the use of Medicaid, nutrition programs, or long-term services) may be misread as indicators of risk rather than expressions of support. Under prior policy shifts, disability and chronic health conditions were often associated with negative assumptions about employability, independence, or service use.

The 2022 rule helped mitigate this risk by providing explicit guidance that disability alone should not be grounds for a negative public charge determination. Removing these guardrails reintroduces substantial room for subjective interpretation, variance across adjudicators, and reliance on implicit biases. Clear standards are therefore essential to ensure that disability is understood in context—not as a red flag, but as a normal part of human variation that often requires predictable access to healthcare and supports [26].

#### Clear Guidance Prevents Misinformation & Supports System Stability

Families, community organizations, healthcare providers, and state agencies rely on precise explanations of how public charge determinations are made. When rules lack detail or are open to broad interpretation, misinformation thrives, particularly in communities with limited English access or limited access to trusted legal guidance. This confusion leads families to avoid programs even when those programs are not tied to public charge, undermining essential health and safety-net systems.

Unclear standards also create administrative inefficiencies. When families disenroll due to fear and later attempt to rejoin programs, safety-net systems experience avoidable churn, case backlogs, and interruptions in care. Immigration adjudicators similarly face inconsistent filings, increased inquiries, and preventable appeals. Clear, accessible standards therefore support both accurate public understanding and stable administration across interconnected federal and state systems.

#### Clear Standards Reduce Inequities in Implementation

Ambiguous or discretionary frameworks tend to magnify existing inequities, particularly for disabled individuals, families with limited English proficiency, and applicants facing structural barriers in healthcare, employment, and housing. Without explicit safeguards, applicants who rely on disability-related supports or income-based programs may be disproportionately affected. This is not because of statutory requirements, but rather because of uneven local interpretations or implicit biases. Strengthening clarity within the public charge framework is therefore not only a matter of administrative consistency, but also an essential step toward equitable and nondiscriminatory implementation. Given these concerns, it is critical that DHS adopt an approach that preserves clarity, prevents misinterpretation, and supports fair decision-making across the system.

## CONCLUSION

Clear, predictable public charge standards are essential to ensuring that families can access life-sustaining programs without fear, that adjudicators can apply the law consistently, and that public systems can function efficiently and effectively. The 2022 rule was intended to provide the clarity needed to reduce confusion, stabilize program participation, and prevent disability from being improperly treated as evidence. The proposed rescission would remove these safeguards without offering comparably detailed replacements, reintroducing uncertainty at a

time when many families are already navigating complex health, economic, and caregiving demands.

The risks outlined in this comment—disruption of essential services for disabled individuals, renewed chilling effects, increased administrative strain, and heightened inequities in implementation—are not speculative. They are well-documented in federal analyses, empirical research, and the lived experiences of families affected by prior changes to the public charge framework. Repeating these patterns would undermine public health, destabilize safety-net programs, and create avoidable hardship for millions of households, including disabled U.S. citizens.

For these reasons, we strongly recommend that DHS not finalize the proposed rescission of the 2022 public charge regulation. We encourage DHS to maintain clear, accessible standards that uphold consistent adjudication, protect against misinterpretation of disability and benefit use, and support the health, stability, and well-being of the communities most affected by public charge policy. We submit this comment not because it is essential to place the documented impacts, community concerns, and disability justice analysis firmly into the public record. If you have any questions, please feel free to contact Dr. Kate Caldwell at [kcaldwell@law.northwestern.edu](mailto:kcaldwell@law.northwestern.edu).

Sincerely,

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