



December 10, 2018

Samantha Deshombres  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Ave, NW  
Washington DC 20529-2140

Re: Notice of Proposed Rulemaking: Inadmissibility on Public Charge Grounds, DHS Docket No. USCIS-2010-0012, RIN 1615-AA22

Dear Ms. Deshombres,

Thank you very much for the opportunity to provide comments on the pending “public charge” rule proposal. The American Network of Community Options and Resources (ANCOR) is the national trade association of disability service providers, primarily providing residential and vocational/day supports for individuals with intellectual and developmental disabilities (I/DD) such as Down syndrome, autism, and cerebral palsy. ANCOR represents over 1,600 private providers of disability services as well as 55 state provider associations.

ANCOR is a nonpartisan association that has historically worked in a bipartisan manner in all of our policy work. ANCOR is disappointed and dismayed in the proposed changes to this regulation because they seem to implicitly confirm a position of our government that people with disabilities are not welcome to participate in a legal immigration process for entry to the United States.

ANCOR is opposed to the proposed “public charge” rule. Instead, ANCOR believes that the Administration’s use of resources and efforts to address immigration policy currently in a piecemeal approach would likely be better invested by working with the legislative branch on bipartisan reform that would protect the United States’ borders and resources while also taking into account the business value and morality of continuing our tradition of legal immigration.

With all of this in mind, ANCOR's comments concern two different groups represented by our members who will be affected by the proposed changes to the "public charge" rule: people with disabilities and the direct support workforce. The proposed rule significantly impacts ANCOR members, whose services and businesses center around meeting the needs of people with disabilities.

## PEOPLE WITH DISABILITIES

There are key sections in the proposed rule that both extend and affirm the rule's application to people with disabilities that are inappropriate and misrepresent the country's position on providing support for the most vulnerable. Some of these sections even appear to contradict goals and policy priorities expressed by other federal agencies and departments under this administration.

### Medicaid

Medicaid is a key support to ensure people with intellectual and developmental disabilities (I/DD) can thrive and become as self-sufficient as possible. This administration's Centers for Medicare and Medicaid Services (CMS) even recently applauded the services of the Medicaid disability programs to support employment outcomes for the individuals served<sup>1</sup>, showing the importance this administration grants to giving people with disabilities the same opportunities as everyone else to be independent and successful. This makes the consideration of Medicaid as evidence of a "public charge" all the more jarring given how this administration has been proud of the successes it achieved through this program.

Hard working families may desire to legally immigrate to the United States with their child with significant disabilities, who may be an adult, because that individual with a disability is unable to thrive or even survive in their country of origin. It makes no practical sense to dissuade legal immigrant applicants, who would join the workforce and contribute to the growth of the economy, from using the programs that help vulnerable family members also achieve employment and other skills of self-sufficiency. ANCOR represents businesses across the country that are ready to serve individuals with I/DD in this country as a call to our commitment to morality and respect for human life. **We hope that the Department of Homeland Security (DHS) will remove the extension of Medicaid as a consideration for designation of "public charge."**

### Institutionalization of Long-Term Care (ICF/IID)

Although original to the public charge designation, ANCOR finds that removal of this section is overdue. The country has continued a steady progress of deinstitutionalization under this and the past several administrations. As that trend continues, the country has seen demonstrated

---

<sup>1</sup> "These activities have been historically focused on services and programs for individuals with disabilities and receipt of these supports is not a condition of eligibility or coverage. The successes of all these programs suggest that a spectrum of additional work incentives, including those discussed in this letter, could yield similar outcomes while promoting these same objectives." See page 3 of <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf>

improvements in the quality of supports, and monetary cost-benefit to the federal government as well. Community supports have been shown to cost half as much as state-run institutions and nursing homes. Despite deinstitutionalized supports and services becoming more and more prevalent, **most people with disabilities receiving any Medicaid supports must first prove that they are at risk of institutionalization.** This requirement, which applies to virtually every individual with an intellectual and/or developmental disability in the United States regardless of immigration status, would thus automatically cast a mark against a person with a disability who is a legal immigrant under the proposed rules.

There is no evidence that people with significant disabilities are taking advantage of the Medicaid system. However, indicating the institutionalization of people with disabilities as a negative aspect of any legal citizenship application, is an ongoing and unfortunate indication that families impacted by disability are not welcomed citizens of the United States. This sends an appalling message to the over 50 million Americans in the United States who are part of those same families.

**In ridding the longstanding consideration of institutionalization, the administration would be making terrific strides for the United States in providing better quality and lower cost community supports to people with disabilities. ANCOR also recommends to instead expend resources on encouraging legal immigrants with disabilities to use supports to become self-sufficient and employed tax-paying citizens which these programs are already equipped to do.**

### Health

This section of the rule is perhaps the most disappointing because as it looks at the severity of one's health, it implicitly excludes people with the most significant disabilities from a legal immigration process. The assumption that people with disabilities hurt our country is fundamentally flawed and deeply problematic.

This proposed rule would have the unintended consequences of banishing a person with a disability but not their family in an asylum seeking application. It could also split up families in other instances where the immigrants were legally applying as a family. But above all, it contrasts with the most important shifts in our country's laws on disability and uses a federally funded program to discriminate against people with disabilities on the basis of their disability – which is starkly against the requirements of Section 504 of the Rehabilitation Act passed. DHS has celebrated this momentous law, the first major federal law providing protections for people with disabilities. Section 504 is a law that not only serves us stateside but upholds our dignity while the United States provides service to other countries and it also comes into play at our borders. It should unequivocally apply here.

**ANCOR urges the administration to uphold Section 504 of the Rehabilitation Act and reconsider any consideration of health status in the proposed rule.**

## WORKFORCE

The direct support professional or direct care workforce providing frontline support for people with disabilities is facing a historical and epic workforce shortage. This is precisely why the [President's Committee for Persons with Intellectual Disabilities](#) focused on the workforce crisis in its first report to President Trump.<sup>2</sup> We are deeply concerned that the proposed changes to the rule would only serve to further weaken a workforce that is essential to maintaining the well-being and quality of life of many groups, notably the elderly population and people with disabilities.

### Family Status

Some ANCOR members have 40% vacancy rates and an even higher annual turnover. This high turnover is occurring even demand is soaring: aging baby boomers want to remain in their community homes, and likewise while more and more individuals with autism, Down syndrome and other I/DD diagnoses are wanting to be served in the community. The effect of the baby boomer generation aging on this workforce cannot be understated.

Right now, there are 32 working age adults for every adult aged 85 and over. By 2050, that number will go down by over half, to 12 working age adults for every adult aged 85 and older. This means that not only will there be greater demand for the very workforce our members recruit from to support people with disabilities because of demographic trends within the boomer generation, but also that there will not be enough U.S. workers entering the workforce to meet that demand. In fact, there is a predicted shortage of 350,000 of these direct care workers by 2040. The Bureau of Labor Statistics suggests that it is a field with one of the greatest labor needs in the next decade – **between 2016 and 2026 over 1,208,800 jobs will be created in this area but many will go unfilled and waiting lists for service will continue to grow.**

This shortage is further compounded by the fact that this specific profession is traditionally female, with 88 percent of the workforce currently being female. With the amount of women entering the workforce estimated to decrease from 7.7 million women between 1996 and 2006, to 3.5 million women in the next decade, as employers our members are confronted with a particularly thorny shortage. This demonstrates that an adequate workforce does not exist in the United States, and furthermore there there is no indication that it will get stronger on its own. However, legal immigration has been critical to support meeting the needs of the elderly and people with disabilities,.

---

<sup>2</sup> President's Committee for Persons with Intellectual Disabilities, "As the DSP workforce shortage has intensified, businesses have employed more immigrant workers. It is estimated that 20–25 percent of direct support workers employed by nursing homes and home health organizations are foreign-born. While percentages vary based on geographic region, multiple studies reviewed by The Lewin Group (2008) estimated that in some parts of the U.S., over half of all DSPs are non-white." Found on page 4 of [https://acl.gov/sites/default/files/programs/2018-02/2017%20PCPID%20Full%20Report\\_0.PDF](https://acl.gov/sites/default/files/programs/2018-02/2017%20PCPID%20Full%20Report_0.PDF)

We are far behind on our workforce needs – and legal immigration has helped to support meeting those needs. In fact, 28 percent of this workforce is estimated to be immigrant based. Given the shortage of female workers detailed above, downplaying the value of an immigrant who may be a woman and the sole supporter of their family is in contradiction to exactly the profile that steps in for the jobs we need filled. To use family status in judging one’s ability to be self-sufficient is counterproductive to what our members need to run their businesses – they need women and men, they need families that are going to create the enclave labor markets that have traditionally enriched this workforce, and they need more people to fill these vacant jobs.

ANCOR members can share the anecdotes of Bosnians, Serbians and Albanians that came to Cleveland and became invested, along with several family members, in providing direct care. Similarly, Somalian families came to Minnesota and Ohio providing additional relief to the massive deficits in direct care. 75% of the workforce in one of our agencies in Maine are all new Americans. This trend is constant around the country. Disability service providers need immigrants and their families to sustain these essential services and keep our proven business models running.

**ANCOR urges DHS to rethink how consideration of family status will impact promising workers for our most needed labor markets.**

#### Education and Skills

Due to the nature of the work in our field, ANCOR members are not seeking high skilled workers to fill major vacancies in our field. Therefore, it is not beneficial to our workforce need to bar workers that we need. It should be noted that these legal immigrants that are entering the direct care workforce are entering a career pathway to a successful lifelong careers, many with increasingly levels of responsibility. They fill a need that the U.S. cannot do on its own. By preventing some of the most eligible individuals from entering the U.S., the businesses we represent will be unable to address the workforce deficit. This will exacerbate an already dire situation and cause severe harm our businesses.

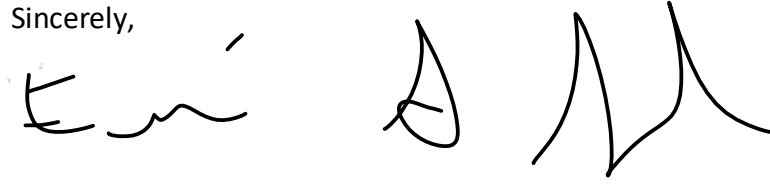
**ANCOR and its member urge the DHS to amend its consideration of education and skills as a prerequisite to legal immigration. Further, ANCOR urges consideration of additional special worker Visa programs that acknowledge the workforce crisis and support special considerations to recruit the large workforce we need.**

#### **CONCLUSION**

Although ANCOR does not support this proposed rule, we believe strongly in always being a resource and collaborator. ANCOR is hopeful that harmful provisions around health, Medicaid use, family status, and education and skills will be removed from the proposed rule. Instead ANCOR hopes to see in its place, a willingness to engage with the legislative branch on

immigration reform and a desire to create the best policy possible for all future Americans.  
Thank you for the opportunity to submit this comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Esmé Grant Grewal". The signature is fluid and cursive, with the first name "Esmé" being the most prominent part.

Esmé Grant Grewal, Esq.

Vice President of Government Relations

American Network of Community Options and Resources (ANCOR)

1825 K St. NW Suite 600 Washington, DC 20006

1101 King St. Suite 380 Alexandria, VA 22314

Phone: 202-579-7789

[egrant@ancor.org](mailto:egrant@ancor.org)