

Testimony from the Community Health Care Association of NYS

Rose Duhan, President & CEO

Committee on General Welfare, Committee on Immigration, and the Committee on Health

**Oversight Hearing: The Impact of the Proposed “Public Charge” Rule on NYC**

November 15, 2018 at 1:00 pm

Thank you for the opportunity to provide testimony on *the Impact of the Proposed “Public Charge” Rule on NYC*. My name is Rose Duhan, and I am the President and Chief Executive Officer of the Community Health Care Association of New York State (CHCANYS), New York State’s Primary Care Association for federally qualified health centers (FQHCs), also known as community health centers or simply, health centers.

CHCANYS operates as an advocate and voice for community health centers across New York State, with over 430 sites serving 1.2 million patients annually in New York City alone. FQHCs are non-profit, community run centers located in medically underserved areas that provide high-quality, cost effective primary care, including behavioral and oral health services, to anyone seeking it, regardless of their insurance status or ability to pay. For those patients who experience difficulties paying for services, all FQHCs are mandated to provide a sliding fee scale to people with incomes below 200% of the federal poverty limit. Each FQHC is governed by a consumer-majority board of directors who seek to identify and prioritize the services most needed by their communities. In New York City, 89% of FQHC patients live at or below 200% of the federal poverty line, 14% are uninsured, 95,000 are aged 65 and above, 385,000 are under age 18, 163,000 live in public housing, 70,000 are homeless, and 382,000 are best served in a language other than English. In short, FQHCs are New York City’s primary care safety net providers - keeping all individuals in the community healthy and providing them with comprehensive primary care.

**An Overview of Public Charge**

Public charge is a term used by the Department of Homeland Security (DHS) to refer to a person who receives public cash assistance, income maintenance, or institutionalization for long-term care at the government’s expense. A person who is considered to be a public charge may be denied admission to the US or lawful permanent resident (green card) status.<sup>i</sup> On October 10, 2018, the Trump Administration published a notice of proposed rulemaking (NPRM)<sup>ii</sup> that would expand benefits considered in determining who is likely to become a public charge. Programs targeted include: non-emergency Medicaid, supplemental nutrition assistance program (SNAP), Medicare Part D Low Income Subsidy, and housing assistance (including public housing, Section 8 housing vouchers, and rental assistance), among other new and expanded standards. Additionally, DHS is looking for comments on the inclusion of Children’s Health Insurance Program into public charge consideration. The proposed rule does not include the Special Supplemental Program for Women, Infants, and Children (WIC) or FQHCs’ sliding fee

scale in the new determination test.<sup>iii</sup> Many advocates, including CHCANYS, fear such changes to public charge determination will have a chilling effect on the application for much-needed benefits, even for benefits not explicitly called out in the proposed rule and among immigrant groups not affected by the rule.

### **The Proposed Public Charge Rule is a Threat to the Health of Immigrants and their Families**

CHCANYS is very concerned that the proposed public charge rule will disincentivize many immigrants and their families from applying to necessary public benefits for which they qualify. In fact, the mere publication of the proposed rule in and of itself may discourage some individuals from gaining access to key preventive health care and public benefits. Enrollment in Medicaid for more than 12 months over a three-year period would be used as a public charge determination. This includes Medicaid coverage of pregnant women for the duration of their pregnancy. The proposed changes disincentivize enrollment other than for emergency coverage<sup>iv</sup> – a notion that is contrary to the widespread understanding throughout the healthcare system of the importance of regular and preventive primary care.

It is estimated that about 20% of NYS Medicaid enrollees live in a family with at least one non-citizen. An estimated 20% of NYS residents in families with at least one noncitizen will disenroll from Medicaid, and in one year it is possible that New York State health centers will see over 50,000 former Medicaid enrollees become uninsured. In New York City we estimate that over 35,000 former Medicaid enrollees may become uninsured as a result of new public charge rules. The implications for disenrollment are far-reaching, and it is possible that NYC will experience increased emergency department utilization and increased rates of preventable disease, likely due to decreased vaccination rates, among other consequences.

### **Impacts to FQHCs Across NYS and NYC**

In a recent CHCANYS survey, over half of health center respondents indicated that they have already seen an increase in the number of individuals who are eligible but not enrolling in Medicaid, SNAP, Section 8 Housing, and WIC due to concerns over deportation, inability to attain a green card, or inability to sponsor a loved one to attain legal permanent status. Some health centers reported that parents have refused benefits for their citizen children, fearing their own ability to gain legal permanent status or the ability for other children in the family to gain legal permanent status. Additionally, NYS health centers have reported that since the beginning of 2018, concerns over accessing Medicaid benefits among immigrants and their families has resulted in decreases in early access to prenatal care among expecting mothers and decreased medication adherence rates, including among high need populations, such as individuals with human immunodeficiency virus, or HIV. Fears over deportation associated with accessing public benefits have led to increased behavioral health needs and corresponding difficulties, including poor performance in school among children, food insecurity, and housing instability.

Regardless of the outcome of the Administration's push to publish a final rule, the over 430 health center sites located throughout the five boroughs will continue providing primary and preventive care to anyone who needs it, regardless of income, insurance, or immigration status, while providing sliding fee discounts for low income New Yorkers.

CHCANYS has been working with national, state and city-based advocacy groups to educate health centers and patients about the impact of the proposed rule and to submit comments to DHS opposing the rule. We recently worked with NYC Health + Hospitals and the Mayor's office to ensure that information about ongoing access to community health centers is included in city educational materials. We look forward to the opportunity to work with the New York City Council to educate New Yorkers about the factual scope of the rule, potential impacts of the rule and ongoing availability of community based primary care services at community health centers across the City.

CHCANYS asks the NYC Council to commit to protecting the health of immigrants and their families by:

- providing financial support to community health centers city-wide that are likely to see an increase in the number of uninsured patients presenting for care,
- publicizing community health centers as a safe resource for immigrants and their families that will provide care regardless of insurance status or ability to pay without reporting immigration status, and;
- submitting comments on the Federal Register detailing the extreme negative consequences of the proposed public charge rule before the comment period deadline on December 10, 2018.

Thank you for the opportunity to testify here today. I look forward to answering any questions you may have.

---

<sup>i</sup> US Citizenship and Immigration Services. "Public Charge Fact Sheet." Retrieved November 14, 2018 at: <https://www.uscis.gov/news/fact-sheets/public-charge-fact-sheet>.

<sup>ii</sup> US Office of the Federal Register. *Inadmissibility on Public Charge Grounds Proposed Rule* by the Homeland Security Department on 10/10/2018. Retrieved November 14, 2018 at: <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds>.

<sup>iii</sup> Protecting Immigrant Families. "Proposed Changes to Public Charge: Analysis and Frequently Asked Questions." (October 10, 2018). Retrieved November 14, 2018 at: <https://docs.google.com/document/d/1FMcQYbV4DWPa9bPQn63oQVJkbkRqxe5dRmjjVFfi0lfg/edit>.

<sup>iv</sup> Rosenbaum, S. *A New "Public Charge" Rule Affecting Immigrants Has Major Implications for Medicaid*. The Commonwealth Fund. (October 16, 2018). Retrieved November 14, 2018 at: <https://www.commonwealthfund.org/blog/2018/new-public-charge-rule-affecting-immigrants-has-major-implications-medicare>.