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Administration Should Reverse Anti-Immigrant Policies That Will Worsen Impacts of Health and Economic Crises

By Shelby Gonzales

The COVID-19 pandemic and economic crisis have hit immigrants and their families especially hard, and Trump Administration policies and rhetoric are only deepening the harm. In particular, the Administration’s punitive and confusing “public charge” rule has stopped many immigrants and their family members from accessing medical care, health coverage, nutrition assistance, and other sorely needed aid. The Administration should suspend the public charge rule and make clear that accessing government supports during the public health and economic crisis will not harm families later when they or their family members go through a public charge assessment as part of their application to enter the country or change their status within it.

The Department of Homeland Security’s (DHS) “public charge” rule directs immigration officials to reject applications from individuals who seek to remain in or enter the United States lawfully if they have received — or are judged more likely than not to receive in the future — need-based benefits such as SNAP (food stamps), Medicaid, and housing assistance. The rule is complex and opaque but the message it sends to immigrants is clear — receiving benefits for which you are eligible could hurt your ability to remain in the United States with your family. But forgoing health care, nutrition assistance, and other crucial supports during this crisis will have serious consequences, leaving people without the treatment they need and making it more likely that families and children will face serious economic hardship including eviction and food insecurity.

Under pressure from lawmakers and advocacy groups, DHS clarified on its website that receiving health services related to COVID-19 would not count against people later going through a public charge determination. But this narrow exemption doesn’t go nearly far enough. All non-emergency medical care unrelated to COVID-19 and paid for by Medicaid would still count against immigration applicants, and any food assistance provided through SNAP and other crucial benefits could still stand in the way of a person seeking to come to or remain in the United States with their family.

In addition to suspending the public charge rule, the Administration should withdraw its rule under development that would bar certain families that include immigrants from accessing housing assistance — effectively forcing many to choose between splitting up their families or risking eviction, homelessness, and other housing instability. And it should automatically extend work

authorization for people who have Deferred Action for Childhood Arrivals (DACA) and Temporary Protected statuses, many of whom work in medical professions and cannot secure extensions because applications are not being processed due to government service reductions associated with social distancing.

Rather than further targeting immigrants through harsh policies and rhetoric — such as the President’s recent call to suspend all immigration into the United States, insinuating that immigrants bear some responsibility for the crisis¹ — the Administration should focus on ensuring that all people living in the United States have the support they need to get through this crisis alive and as well positioned economically as possible.

If the Administration refuses to act, Congress should mandate the suspension of the public charge rule, require the withdrawal of other pending rules, and extend the status of those currently with DACA and Temporary Protected statuses. Congress also should address other shortcomings in prior relief packages, including by providing stimulus payments (also known as “economic impact payments”) to the 15 million immigrants and their family members who were left out the first round of economic relief cash rebates.² Immigrants make up large shares of the workforce both in hard-hit industries and in jobs whose essential functions are keeping them on the job (and at higher risk of contracting COVID-19). All of them should have access to needed medical care and help making ends meet, like others facing this crisis.

The Pandemic and Economic Crisis Are Hitting Immigrants Hard

Many industries that are experiencing significant losses due to public health mitigation efforts related to COVID-19, such as retail, hospitality, child care, and restaurants, have large shares of immigrant workers. While the latest available unemployment data from March do not reflect a large share of the job losses that occurred toward the end of the month, the data did show that the modest rise in unemployment was higher for non-citizens than for citizens.³ Many other non-citizens work in essential jobs at higher risk of COVID-19 exposure, such as personal care assistants to seniors and people with disabilities, the Migration Policy Institute finds.⁴ This includes both immigrants with lawful immigration status and immigrants without work authorization who nonetheless do jobs critical to our communities and economy. Immigrant workers are often low-

¹ Donald J. Trump, “In light of the attack from the Invisible Enemy, as well as the need to protect the jobs of our GREAT American Citizens, I will be signing an Executive Order to temporarily suspend immigration into the United States!” April 20, 2020, <https://twitter.com/realdonaldtrump/status/1252418369170501639?lang=en>.

² Based on Pew estimates of 20.2 million adults and children in 2016 living in U.S. households that included an immigrant who is undocumented and 5.6 million children under 18 living with parents with such a status, and additional CBPP calculations using March 2019 Current Population Survey data. Jeffrey S. Passel and D’Vera Cohn, “U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade,” Pew Research Center, November 27, 2018, https://www.pewresearch.org/hispanic/wp-content/uploads/sites/5/2019/03/Pew-Research-Center_2018-11-27_U-S-Unauthorized-Immigrants-Total-Dips_Updated-2019-06-25.pdf.

³ Danilo Leandro Trisi, “Thread: The employment rate fell twice as much for non-citizens than for citizens in March 2020, we find in recently released data,” April 15, 2020, <https://twitter.com/TrisiDanilo/status/1250488356976439297>.

⁴ Julia Gelatt, “Immigrant Workers: Vital to the U.S. COVID-19 Response, Disproportionately Vulnerable,” Migration Policy Institute, Revised April 2020, <https://www.migrationpolicy.org/research/immigrant-workers-us-covid-19-response>.

paid and support their families paycheck to paycheck, and when they lose their job, the family often has little savings to fall back on.

Many immigrants are ineligible for various forms of public assistance due to their immigration status, including people with DACA or Temporary Protected status, people with temporary visas related to a variety of factors like schooling, those filling jobs that are needed in certain sectors, and even lawful permanent residents within their first five years of obtaining their status. These restrictions in accessing support put them in an especially vulnerable situation amid the COVID-19's pandemic and economic crisis. In other cases, immigrants or members of their families *are eligible* for help from programs like SNAP or Medicaid but forgo assistance out of fear of the Administration's harsh public charge policies that it began implementing in late February this year. If immigrants and their family members are afraid to access help for which they are eligible, they are more likely to face serious hardships like eviction, poor health outcomes, homelessness, and hunger.

Public Charge Rule Will Make Crisis Far Worse

By directing officials to reject immigration applications from individuals who received — or are judged more likely than not to receive in the future — any of an array of public benefits, DHS' public charge rule makes it harder for those currently of modest means to gain lawful entry or permission to remain in the country as a permanent resident. The rule is complex and opaque but the message it sends is clear — receiving benefits for which you are eligible could lead to harmful immigration consequences that hurt your ability to remain in the United States with your family.

Most people eligible for programs such as SNAP, Medicaid, and housing assistance — programs implicated in the public charge rule — are very unlikely to ever go through a public charge determination, so participation in these programs will not likely result in large numbers of individuals being denied status.⁵ But fear of a misstep has caused immigrants and their family members to forgo applying for or disenroll from benefits, well before DHS began implementing the rule early this year: in 2018, when the media widely covered the rule's development, about 1 in 5 adults in immigrant families with low incomes reported that they or a family member did not participate in a non-cash benefit program to avoid risking a public charge-related issue, an Urban Institute survey found.⁶

About 1 in 7 adults report that they would avoid seeking medical care for themselves or a family member due to concerns about their ability to pay for it, even if they had a fever or dry cough, a recent Gallup poll found.⁷ If people are afraid to access Medicaid and other health coverage

⁵ While program participation will unlikely result in failing a public charge assessment, the rule's new public charge standard and other criteria will make it very difficult for people without substantial means to immigrate lawfully to the United States. See Danilo Trisi, "Administration's Public Charge Rules Would Close the Door to U.S. to Immigrants Without Substantial Means," CBPP, updated November 11, 2019, <https://www.cbpp.org/research/immigration/administrations-public-charge-rules-would-close-the-door-to-us-to-immigrants>.

⁶ Hamutal Bernstein *et al.*, "With Public Charge Rule Looming, One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018," Urban Institute, May 21, 2019, <https://www.urban.org/urban-wire/public-charge-rule-looming-one-seven-adults-immigrant-families-reported-avoiding-public-benefit-programs-2018>.

⁷ Dan Witters, "In U.S., 14% With Likely COVID-19 to Avoid Care Due to Cost," Gallup, April 28, 2020, <https://news.gallup.com/poll/309224/avoid-care-likely-covid-due->

programs during this public health crisis, they may delay or forgo needed medical care out of worry that they can't afford it. This could result in fewer people being tested and receiving treatment. Families that include immigrants may also forgo much-needed food assistance that can help them compensate for losses of income and of access to free and reduced-price meals for their children home from school.

Administrative Action Taken So Far Is Inadequate

Under pressure from lawmakers and immigrant rights groups, DHS issued a notice indicating that government-paid COVID-19 testing and medical treatment would not negatively factor into immigration status applications.⁸ But this notice, caveat-laden and written in highly technical language, does not go far in reassuring families that have witnessed this Administration's consistently harsh stance on immigration.⁹ And it does nothing to reassure immigrants who have lost their job that they can access food assistance or help with health care needs (beyond those related to COVID-19) without fear of harsh immigration consequences.

People need clear, unequivocal assurance from DHS that receipt of any assistance during this public health and economic crisis will not count against immigrants, would-be immigrants, and their families in any immigration proceedings or decisions. That means that the Administration must suspend the public charge rule in its entirety so that service providers, immigration lawyers, and states and localities can assure individuals and families, without caveats, that receipt of health, nutrition, and housing benefits will not result in any harm in future immigration proceedings.

Other Steps to Assist Immigrants and Their Families During Crisis

Additional steps the Administration should take to reduce the pandemic's impacts on immigrants and their families include the following:

- The Department of Housing and Urban Development should withdraw its harsh proposed rule to bar certain families with immigrants from most federal rental assistance programs. The rule would deny assistance to U.S. citizens and eligible immigrants if they share a home with an immigrant family member who's ineligible due to their immigration status — forcing eligible people to either split up their families or lose their assistance and risk eviction and homelessness. If finalized, the proposed rule would threaten the housing stability of over 100,000 people — including 58,000 children.¹⁰ Families facing multiple health and economic

[cost.aspx?utm_source=STAT+Newsletters&utm_campaign=7dd10e898c-MR_COPY_01&utm_medium=email&utm_term=0_8cab1d7961-7dd10e898c-151966829](https://www.dhs.gov/immigration-services/immigration-status-applications/cost.aspx?utm_source=STAT+Newsletters&utm_campaign=7dd10e898c-MR_COPY_01&utm_medium=email&utm_term=0_8cab1d7961-7dd10e898c-151966829).

⁸ Kathryn Pitkin DeRose, "The Public Charge Rule's likely hazard to our nation's health during COVID-19," *The Hill*, April 3, 2020, <https://thehill.com/opinion/white-house/491080-the-public-charge-rules-likely-hazard-to-our-nations-health-during-covid>; U.S. Citizenship and Immigration Services, "Public Charge," March 27, 2020, <https://www.uscis.gov/greencard/public-charge>.

⁹ Danilo Trisi and Guillermo Herrera, "Administration Actions Against Immigrant Families Harming Children Through Increased Fear, Loss of Needed Assistance," CBPP, May 15, 2018, <https://www.cbpp.org/research/poverty-and-inequality/administration-actions-against-immigrant-families-harming-children>.

¹⁰ Anna Bailey, "Trump Proposal Would Force 25,000 Families to Split Up or Lose Rental Assistance," CBPP, June 27, 2019, <https://www.cbpp.org/blog/trump-proposal-would-force-25000-families-to-split-up-or-lose-rental-assistance>.

crises should not have to live in fear of this new rule going into effect and choosing between losing their home or splitting up their families.

- The Department of Health and Human Services should withdraw its “Nondiscrimination in Health and Health Education Programs or Activities” rule, which would radically reinterpret civil rights protections under the Affordable Care Act¹¹ for people with limited English proficiency (LEP). If finalized, the rule would reduce access to critical language at a time when improved language accessibility is critical, especially given reports of people with LEP not having timely and accurate information about COVID-19 or prevention measures like social distancing.¹² Those with LEP and presenting with COVID-19 symptoms have reportedly faced serious barriers to medical care.¹³
- The Administration should automatically extend work authorization for individuals with DACA and Temporary Protected statuses who are at risk of having their work authorization expire due to immigration office closures and pre-existing backlogs in application processing. Many of them work in jobs, such as in medical professions, essential to our country’s response to the pandemic.¹⁴

Moreover, the Administration should not use inflammatory rhetoric to attack immigrants by insinuating that they bear some responsibility for the health and economic crises. Rather, it should reach out to immigrant communities and help them navigate the pandemic.

Future COVID-19 Legislation Should Do More for Immigrants and Their Families

Policymakers should not only undo harmful administrative policies. They should also take steps to actively promote immigrants’ capacity to help themselves and their families deal with the harsh impact of the current crisis.

- If the Administration fails to suspend its public charge policy, Congress should mandate its suspension in future relief legislation.
- Stimulus payments (also known as recovery rebates) should be available to all individuals and families, including those without a Social Security number (SSN) who file a tax return with an individual tax identification number. The Coronavirus Aid, Relief, and Economic Security Act provides \$1,200 per adult (\$2,400 for a married couple) and \$500 per dependent child under 17. But the President and Congress left out some 15 million immigrants and their family members (millions of them U.S. citizens), making the rebates only available to

¹¹ Section 1557 of the Affordable Care Act.

¹² David Velasquez, Nishant Uppal, and Numa Perez, “Equitable Access To Health Information For Non-English Speakers Amidst The Novel Coronavirus Pandemic,” *Health Affairs*, April 2, 2020, <https://www.healthaffairs.org/doi/10.1377/hblog20200331.77927/full/>.

¹³ Joshua Kaplan, “Hospitals Have Left Many COVID-19 Patients Who Don’t Speak English Alone, Confused and Without Proper Care,” ProPublica, March 31, 2020, <https://www.propublica.org/article/hospitals-have-left-many-covid19-patients-who-dont-speak-english-alone-confused-and-without-proper-care>.

¹⁴ Kristie De Peña and Matthew La Corte, “Two Ways Congress and DHS Can Protect DACA Recipients on the COVID-19 Frontlines,” Niskanen Center, April 2, 2020, <https://www.niskanencenter.org/two-ways-congress-and-dhs-can-protect-daca-recipients-on-the-covid-19-frontlines/>.

households in which both the tax filer and their spouse, if married filing jointly, have an SSN. (The only exception is for members of armed services, if one spouse has an SSN.) That means the entire household — including the children in it — is denied the payment if either the filing adult or spouse lacks an SSN. In addition, children must have an SSN to qualify for the \$500 additional payment.

This treatment is harsher than the new, more restrictive SSN requirements for the Child Tax Credit enacted as part of the 2017 tax law: while that law denied the tax credit to about 1 million previously eligible children who lack an SSN, it allows children with SSNs to receive the credit irrespective of whether one or both of their parents may lack an SSN.¹⁵

- The next relief package should also provide flexible funds to states to help families avert crises and should make that assistance available to families that include immigrants. Creating a flexible emergency assistance fund of at least \$10 billion, modeled after the Great Recession’s Temporary Assistance for Needy Families emergency fund, would allow states to provide monthly cash payments, emergency assistance grants, or subsidized jobs (when it is safe to do so) to families and individuals with the lowest incomes who are facing a crisis that could lead to eviction or result in serious health consequences. The fund would target families and individuals — including millions of immigrants — who are largely or entirely left out of other relief mechanisms or whose needs can’t be met with those measures alone.

¹⁵ Jacob Leibenluft, “Tax Bill Ends Child Tax Credit for About 1 Million Children,” CBPP, December 18, 2017, <https://www.cbpp.org/blog/tax-bill-ends-child-tax-credit-for-about-1-million-children>.