

December 19, 2025

Submitted via www.regulations.gov

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Secretary of Homeland Security
Washington, D.C. 20528

Re: DHS Docket No. USCIS-2025-0304 — 65 Organizations Committed to People living with HIV and Ending the HIV Epidemic Express Strong Opposition to Proposed Public-Charge Rule

The below 65 organizations submit this comment in unequivocal opposition to the Department of Homeland Security's (DHS) 2025 proposed Public Charge rule (USCIS-2025-0304), which would inject fear and uncertainty into the factors U.S. Citizenship and Immigration Services (USCIS) may use in public charge determinations and place immigrant families at risk of losing access to essential health, nutrition and social services. This proposed rule replaces the clear and limited standards established in the 2022 rule with vague, undefined "tools" and criteria, opens the door to weighing family members' benefit use against applicants, and invites subjective judgments about immigrants' personal characteristics, including health conditions and needs. These changes would create widespread fear, threaten individual and family economic and health security, and harm immigrants living with and vulnerable to HIV, especially those who are women, are gender expansive people, or who already face racial, linguistic, and structural inequities.

People living with or vulnerable to HIV require consistent access to healthcare. For people living with HIV, consistent access to HIV treatment improves quality of life and is necessary to achieve viral suppression, which enables people living with HIV to live healthy lives and ensures they are unable to transmit HIV.¹ For people with reasons for HIV prevention, access to healthcare is also important to receive lifesaving prevention services, such as Pre-Exposure Prophylaxis (PrEP), which is highly effective at reducing HIV transmissions and is a central pillar in the federal initiative to End the HIV Epidemic (EHE) in the U.S..² By discouraging people from accessing benefits, including healthcare benefits, the proposed rule will inhibit access to HIV care and prevention, jeopardizing lives and undermining the EHE.

I. The proposed rule would cause significant, harmful chilling effects and increase risk of discrimination against people living with HIV.

Based on both historical evidence and what reasonable people would do given the lack of certainty and hostile indications provided by the current proposed rule, this proposed rule would have a significant

¹ HIV.gov, *Viral Suppression and Undetectable Viral Load* (October 24, 2025), <https://www.hiv.gov/hiv-basics/staying-in-hiv-care/hiv-treatment/viral-suppression>

² Health Resources & Services Administration, *Ending the HIV Epidemic in the U.S.* (January 2025), <https://www.hrsa.gov/ending-hiv-epidemic>.

and harmful chilling effect on access to care and services for immigrant communities.³

Changes in the behavior of immigrant families following the passage of the 1996 welfare law (PRWORA) provide historical evidence of chilling effects. A comprehensive review of studies conducted following the enactment of PRWORA showed statistical evidence of reduced use of benefits among populations whose eligibility was unchanged by the law, including refugees and U.S.-citizen children with immigrant parents.⁴

The chilling effect of the 2019 rule is more difficult to measure with participation data because the rule was only in effect for a limited time, and the confounding effects of the COVID-19 pandemic make it hard to isolate the impacts of this policy change. However, surveys⁵ and relevant studies⁶ provide data to confirm that the chilling effect influenced families before the 2019 rule was finalized and continued to affect program participation even after the 2019 rule was withdrawn and replaced. There is evidence of immigrant families avoiding public programs for fear of immigration consequences,⁷ and this issue can be exacerbated for immigrants living with or vulnerable to HIV, who are already at risk of experiencing other barriers to care such as HIV-related stigma, racial discrimination,⁸ and language access challenges.⁹

³ See Blau, Reuvan. *They've Gone Off the Map: Fear Drives Immigrants Away From Clinics*, The City (August 2025), <https://www.thecity.nyc/2025/08/12/ice-fear-undocumented-immigrant-medical-services-nycare>; Schorsch, Kristen. *Fearful amid ICE crackdowns, some immigrants are skipping health care*, National Public Radio (February 2025), <https://www.npr.org/sections/shots-health-news/2025/02/10/nx-s1-5290063/migrants-chicago-delayed-health-care-immigration-crackdown-fears>.

⁴ Francisco I. Pedraza and Ling Zhu, *The 'Chilling Effect' of America's New Immigration Enforcement Regime*, Pathways (Spring 2015), https://inequality.stanford.edu/sites/default/files/Pathways_Spring_2015_Pedraza_Zhu.pdf.

⁵ Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, and Stephen Zuckerman, *Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, Urban Institute (May 2020), <https://www.urban.org/research/publication/amid-confusion-over-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-2019>; Jennifer M. Haley, Genevieve M. Kenney, Hamutal Bernstein, and Dulce Gonzalez, *One in Five Adults in Immigrant Families with Children Reported Chilling Effects on Public Benefit Receipt in 2019*, Urban Institute (June 2020), <https://www.urban.org/research/publication/one-five-adults-immigrant-families-children-reported-chilling-effects-public-benefit-receipt-2019>; Dulce Gonzalez, Hamutal Bernstein, Michael Karpman, and Genevieve M. Kenney. *Mixed-Status Families and Immigrant Families with Children Continued Avoiding Safety Net Programs in 2023*, Urban Institute (August 2024), <https://www.urban.org/research/publication/mixed-status-families-and-immigrant-families-children-continued-avoiding>; Bernstein et al. 2020, op cit. (Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, and Stephen Zuckerman, *Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, Urban Institute (May 2020), <https://www.urban.org/research/publication/amid-confusion-over-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-2019>

⁶ Drishti Pillai et al. *KFF/New York Times 2025 Survey of Immigrants: Health and Health Care Experiences During the Second Trump Administration*, Kaiser Family Foundation (November 2025), <https://www.kff.org/immigrant-health/kff-new-york-times-2025-survey-of-immigrants-health-and-health-care-experiences-during-the-second-trump-administration/>; Jeremy Barofsky, Dinardo Rodriguez, and Anthony Barrows, *"Spreading Fear: The Announcement of the Public Charge Rule Reduced Enrollment in Child Safety-Net Programs*, Health Affairs (October 2020), <https://doi.org/10.1377/hlthaff.2020.00763>; Alexandra Ashbrook, *New Data Reveal Stark Decreases in SNAP Participation Among U.S. Citizen Children Living With a Non-Citizen*, Food Research & Action Center (May 2021), <https://frac.org/wp-content/uploads/SNAP-Participation-Among-U.S.-Citizen-Children.pdf>; Scarlett Sijja Wang, Sherry Glied, Claudia Babcock, and Ajay Chaudry, *Changes in the Public Charge Rule and Health of Mothers and Infants Enrolled in New York State's Medicaid Program, 2014–2019*, American Journal of Public Health 112, no. 12 (July 2022): 1747–56. <https://doi.org/10.2105/AJPH.2022.307066>.

⁷ Bernstein, H., González, D., Karpman, M., & Zuckerman, S., *Amid confusion over the Public Charge Rule, immigrant families continued avoiding public benefits in 2019*, Urban Institute (May 2020), https://www.urban.org/sites/default/files/publication/102221/amid-confusion-over-the-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-in-2019_3.pdf.

⁸ Chioma Nnaji, Bisola O. Ojikutu, *Intersecting Stigmas: Being Black African, Immigrant, and Living With HIV in the United States*, American Journal of Public Health (June 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9241462> ("restricted access to health insurance, uncertainty regarding eligibility for health services based on immigration status, and fears of rejection of one's citizenship request or deportation if one tests HIV positive impede engagement in HIV testing, treatment, and prevention efforts").

⁹ Rodriguez, Matthew, *How HIV Impacts Latinos in the U.S.*, *The Body* (April 2024), <https://www.thebody.com/health/hiv-aids-latinx>.

Indeed, HIV service providers have testified to how the 2019 rule created fear and caused some people living with HIV to refuse to enroll in benefits for which they were eligible.¹⁰

The harms of this proposal mirror, and are poised to exceed, the destructive impacts of the 2019 public charge rule. The proposed rule offers no guidance as to what can be considered in a public charge determination by discarding the 2022 rules' clearly defined list of programs and granting unfettered discretion to DHS officials to consider hundreds if not thousands of programs, including those that support health, nutrition, housing, or social service needs. This opens the door to penalizing immigrant families for accessing essential, life-saving programs that Congress never intended to include in public charge determinations.

It also creates opportunities for discrimination and bias to influence immigration officials' decision making, an issue of particular concern to the HIV community given ongoing HIV stigma. Discrimination in immigration adjudications against people living with HIV has a documented history. From 1993 to 2010, a person living with HIV could be barred from immigrating to the U.S., or from obtaining a short-term visa, based on their HIV status. Although this rule was eliminated in 2010,¹¹ people living with HIV are still at risk of stigma and discrimination by immigration officials. For example in 2019, a high-ranking U.S. immigration official said that children of people living with HIV would be taken from their parents at the border because HIV is a "communicable disease." At least one father was separated from his three daughters for that reason.¹² Authorizing immigration officials to wield broad discretion in public charge decisions without meaningful guardrails risks allowing HIV stigma to impact immigration decisions again – in violation of the rule ending the HIV immigration ban more than 15 years ago.

If this proposed rule moves forward without defined standards, public charge determinations would be vulnerable to individual officers' assumptions, biases, and discretion. The increased discretion of the proposed rule further risks two similarly situated applicants receiving different outcomes, magnifying inequalities and potential discrimination against people living with HIV, who already face compounded stereotypes and barriers.¹³ The proposal's suggestion that the use of benefits by spouses, children, or other family members may be considered by USCIS only compounds these harms. Families, especially those with U.S. citizen children, may avoid accessing healthcare (including HIV care, HIV prevention, and reproductive health care), nutrition assistance, or housing support out of fear that doing so could jeopardize an immigration application.

¹⁰ Wolf v. Cook County, Et all, *Pl.'s Opp. to Def. Application for Stay of The Injunction* at 77-87 (589 U.S 2020), https://www.supremecourt.gov/DocketPDF/19/19A905/133482/20200219144103313_Stay%20Opposition%20and%20Addendum.pdf?utm_source=chatgpt.com.

¹¹ See Pub. L. No. 110-293, 122 Stat. 2918 (July 30, 2008); 74 Fed. Reg. 56547 (Nov. 2, 2009).

¹² The Well Project, *Immigration to the US, Women, and HIV: Facts and Resources* (January 2024), <https://www.thewellproject.org/hiv-information/immigration-us-women-and-hiv-facts-and-resources>; Human Rights Watch, *HIV Status No Justification for Family Separation in the US* (July 31, 2019), <https://www.hrw.org/news/2019/07/31/hiv-status-no-justification-family-separation-us>

¹³ Qadhia, Shoba Sivaprasad. *Darkside Discretion in Immigration Cases*, American Bar Association, Administrative Law Review, Vol. 72, No. 3 (2020), https://insight.dickinsonlaw.psu.edu/fac_works/385/ ("Darkside Discretion refers to a situation where a noncitizen satisfies the statutory criteria set by Congress to be eligible for a remedy, but is denied by an adjudicator in the exercise of discretion", pp. 369)

II. The proposed rule would harm people living with HIV and undermine the federal EHE initiative.

With advances in HIV treatment and prevention, we have the tools to end the HIV epidemic and improve quality of life for people living with HIV. We will not do so, however, with policies that jeopardize access to HIV prevention, care, and services for people living with and vulnerable to HIV. The proposed rule creates such impediments by deterring people living with and vulnerable to HIV from accessing vital public programs.

The 2025 proposed rule removes all clear standards and provides no list of what programs might be considered in the public charge assessment. This creates an environment where immigrant families, including families with people living with HIV, cannot reasonably determine how to protect their immigration status or safeguard their loved ones. This uncertainty alone is enough to deter access to the services that make HIV treatment and care possible, support complex medical needs, and keep people housed.

Public programs are designed to allow individuals to be self-sufficient and are important to our efforts to end the HIV epidemic and improve quality of life for people living with HIV in the U.S.

- Access to HIV treatment is essential for people living with HIV to be able to live productive lives, with life expectancies comparable to people not living with HIV. Federal public health insurance programs such as Medicaid, the largest source of HIV care and treatment in the U.S., are key to ensuring access to care for people living with HIV.¹⁴
- Access to adequate and stable housing is associated with better health outcomes and viral suppression for people living with HIV.¹⁵
- Access to food for people living with HIV is also associated with better health outcomes, including decreased emergency room visits. Individuals living with HIV with secure access to food are more likely to be virally suppressed, meaning they cannot transmit HIV to others.¹⁶

Forcing a person living with HIV to choose between vital public programs and their immigration status risks causing a human rights and public health disaster. If people living with HIV are discouraged from accessing health insurance and other programs that help them stay in care and sustain viral suppression, this will likely lead to treatment interruptions, increased transmission rates, preventable deaths, and increased healthcare costs, as people with HIV who are not virally suppressed are more likely to get sick and are able to transmit HIV to others. Likewise, discouraging people with reasons for HIV prevention from accessing PrEP and other services will also increase transmissions. These impacts are in direct conflict with the central pillars of the federal EHE initiative.¹⁷ Creating a policy barrier and chilling effect

¹⁴ Kaiser Family Foundation, *5 Key Facts About Medicaid Coverage for People with HIV* (April 2025), <https://www.kff.org/medicaid/5-key-facts-about-medicaid-coverage-for-people-with-hiv/>.

¹⁵ Wolitski, R.J., Kidder, D.P., Pals, S.L., et al., *Randomized Trial of the Effects of Housing Assistance on the Health and Risk Behaviors of Homeless and Unstably Housed People Living with HIV*, *AIDS & Behavior*, 14(3): 493–503 (2010), <https://doi.org/10.1007/s10461-009-9643-x>

¹⁶ Center for HIV Law and Policy Innovation, *Food Is Prevention: The Case for Integrating Food and Nutrition Interventions into Health Care*, July 2015, <https://www.chlpi.org/wp-content/uploads/2013/12/Food-is-Prevention-Report-July-2015.pdf>.

¹⁷ Health Resources & Services Administration, *Ending the HIV Epidemic in the U.S.* (January 2025), <https://www.hrsa.gov/ending-hiv-epidemic>.

on access to public programs will hamper our nation's efforts to end new HIV transmissions and the U.S. HIV epidemic more broadly.

III. The proposed rule would harm women and gender diverse people, including those who are pregnant, parenting, and/or living with HIV.

Women¹⁸ and gender expansive people, including those who are pregnant, parenting or living with HIV, may avoid accessing healthcare (including HIV care and reproductive health care), nutrition assistance, or housing support out of fear that doing so could jeopardize an immigration application. This could cause delayed or missed healthcare, untreated reproductive health conditions, missed prenatal care, restricted access to contraception, food insecurity, and deepened poverty.

It is well documented that women living with HIV face intersecting barriers to care, including poverty, racism, transmisia, and intimate partner violence.¹⁹ A Positive Women's Network survey (n=180) of women living HIV revealed that, although 31% of respondents were either volunteering or working full-time, nearly three-quarters of respondents reported incomes at or below 100% of the FPL.²⁰ Policies that create fear, uncertainty, and negative consequences in use of public programs would compound or exacerbate these already-existing barriers to care.

Medicaid, in particular, is a keystone program. Along with covering 40% of people living with HIV,²¹ Medicaid provides essential insurance to women of reproductive age. Fear of accessing Medicaid during pregnancy can have severely negative consequences. A cohort study published in the American Journal of Perinatology examining nearly 29 million deliveries found inadequate prenatal care significantly increased the odds of preterm birth, intrauterine growth restriction, stillbirth, and neonatal death.²² Additionally, expanding Medicaid eligibility during pregnancy to previously uncovered immigrants has been found to significantly increase use of prenatal care and support more regular prenatal visits. In turn, this resulted in improved birth outcomes, as measured by increased average gestational length (e.g. fewer premature births) and birthweight among infants born to immigrant mothers.²³

Policies that keep immigrants from accessing reproductive health care exacerbate health disparities. For example, only about half of immigrant women at risk for unintended pregnancy received contraceptive

¹⁸ Through the rest of this public comment, we use "women" as a general term. Where relevant, this could include cisgender and transgender women, people with the capacity to become pregnant, and people assigned female at birth.

¹⁹ Kaiser Family Foundation, *The Impact of HIV on Women in the United States*, (December 2024), <https://www.kff.org/hiv-aids/the-impact-of-hiv-on-women-in-the-united-states/>; The Well Project, *Black Women, Racism, and HIV in the US* (November 2024) <https://www.thewellproject.org/hiv-information/black-women-racism-and-hiv-us>; The Well Project, *Women of Transgender Experience Living with HIV* (November 2024), <https://www.thewellproject.org/hiv-information/women-transgender-experience-living-hiv>.

²⁰ Positive Women's Network – USA, *Securing the Future of Women Centered Care* (2015), <https://pwn-usa.org/wp-content/uploads/2016/03/rwp-report-final.pdf>.

²¹ Lindsey Dawson, et al., *5 Key Facts About Medicaid Coverage for People with HIV*, Kaiser Family Foundation (April 2025), <https://www.kff.org/medicaid/5-key-facts-about-medicaid-coverage-for-people-with-hiv/>.

²² Sarah Partridge, et al. *Inadequate Prenatal Care Utilization and Risks of Infant Mortality and Poor Birth Outcome: A Retrospective Analysis of 28,729,765 U.S. Deliveries Over 8 Years*. American Journal of Perinatology (Jul 2019), <https://www.ncbi.nlm.nih.gov/pubmed/22836820>.

²³ Sarah Miller, Laura Wherry, and Gloria Aldana. *Covering Undocumented Immigrants: The Effects of a Large-Scale Prenatal Care Intervention*, NBER Working Paper 30299 (March 2024), <https://www.nber.org/papers/w30299>.

care in the last year. In contrast, two-thirds of U.S.-born women received contraceptive care.²⁴ Immigrant women have higher rates of unintended pregnancy and are less likely to receive cervical cancer screening, which has serious consequences for immigrant women's health.²⁵ The widespread fear and uncertainty the proposed rule would cause risks worsening the barriers to care that women and gender diverse people, including those who are pregnant, parenting, and/or living with HIV, already face.

IV. Conclusion

The following organizations urge DHS to withdraw the proposed rule in its entirety and restore policies that promote family and community stability. DHS should instead restore and maintain the clear, limited standards of the 2022 Public Charge Rule. The agency should also publish the full criteria it intends to use so that families do not avoid accessing healthcare or other essential services out of fear of immigration consequences. Any future guidance or decision-making tools must be published, translated and released for public comment before implementation to ensure transparency and community engagement.

Advocates For Youth

AIDS Alabama

AIDS Foundation Chicago

The AIDS Institute

Arkansas Black Gay Men's Forum

Association of Nurses in AIDS Care

CAEAR Coalition

Cares of Southwest Michigan

Cascade AIDS Project

Center for Health Law and Policy Innovation

The Center for HIV Law and Policy

Chicago House and Social Service Agency

Chicago Women's AIDS Project

CHPLA

Christie's Place

Colorado Organizations and Individuals Responding to HIV/AIDS (CORA)

Community Access National Network

Community Health Project Los Angeles

The Community Wellness Project

CQLC NFP

Defend Public Health

Equality Federation

Fair Wisconsin

²⁴ Guttmacher Institute, *U.S. Women's Use of Sexual and Reproductive Health Services: Trends, Sources of Care and Factors Associated with Use, 1995–2010* (May 2013), https://www.guttmacher.org/sites/default/files/report_pdf/sources-of-care-2013.pdf.

²⁵ Hasstedt, Kinsey. *Toward Equity and Access: Removing Legal Barriers To Health Insurance Coverage for Immigrants*, Guttmacher Policy Review Volume 16, Number 1 (2013) https://www.guttmacher.org/sites/default/files/article_files/gpr160102.pdf

Freedom Oklahoma
HAA
HealthHIV
Hep B Free
HIV AIDS Alliance of Michigan
Housing Works
Illinois Public Health Association
International Association of Providers of AIDS Care
International Community of Women Living with HIV North America
Lansing Area AIDS Network
Latino Commission on AIDS
Legal Council for Health Justice
Mother and Child Alliance
National Alliance for HIV Education and Workforce Development
National Harm Reduction Coalition
National Working Positive Coalition
NMAC
Positive Women's Network-New York State
Positive Women's Network-USA
POZ Impact
PRC
PrEP4All
Presbyterian HIV Network, PHEWA, PC USA
The Project of the Quad Cities
PROMO Missouri
San Francisco AIDS Foundation
Save HIV Funding Campaign
SisterReach, Inc.
Southeast Community Research Center
Sunburst Projects
TaskForce Prevention and Community Services
The Sero Project
Transitions Clinic Network
Treatment Action Group
Triad Health Project
Unitarian Universalists for a Just Economic Community
U.S. People Living with HIV Caucus
Valley AIDS Council
Vivent Health
Woman to Woman
Woodhull Freedom Foundation
Youth Across Borders

The 6:52 Project Foundation, Inc.