

Public Reason, Public Comments, and Public Charge: A Case Study in Moral & Practical Reasoning in Federal Rulemaking

Rachel Fabi¹ and Lauren Zahn¹

1: SUNY UPSTATE MEDICAL UNIVERSITY, SYRACUSE, NY, USA

Keywords: Public Charge, Deservingness, Self-Sufficiency, Citizenship, Rulemaking

Abstract: The “public charge” rule is a long-standing immigration policy that seeks to determine the likelihood that a prospective immigrant will become dependent on the government for subsistence. When the Trump administration sought to expand the criteria that would count against an applicant for permanent residency to include public benefits historically excluded from the calculation, thousands of commenters wrote to oppose or support the proposed changes. This paper explores the moral and practical reasons commenters provided for their position on the public charge rule and considers the value of the public comment process for immigration, health, and social policy.

In October 2018, the Trump administration’s Department of Homeland Security (DHS) published a notice of proposed rulemaking (NPRM) in the *Federal Register*. This NPRM requested public comments on its proposal to change what is known as the “public charge” rule. The comments received by DHS, and the agency’s response to those comments in the August 2019 publication of the final rule, are the focus of this analysis. We review a sample of the

public comments on the proposed changes to the public charge rule to identify the moral and practical reasons that commenters used to support or oppose the proposed rule. We explore the themes that emerge from the comments in the context of the government’s response in the finalized public charge rule from August 2019, subsequent court challenges to the rule, and the COVID-19 pandemic. Finally, we consider the value of public comments on proposed regulations related to immigration and immigrant health more generally.

Policy Background

According to the U.S. Citizenship and Immigration Services, a *public charge* is someone who is likely to become “primarily dependent on the government for subsistence.”¹ The “public charge rule” finds its roots in the Immigration Act of 1882, which denied admission to any “convict, lunatic, idiot or any person unable to take care of him or herself without becoming a public charge.”² The stated goal of restricting immigration in this way is to place limits on benefit use and prevent dependence on the government in order to reduce government spending. The rule uses a screening test to determine if an applicant is likely to become a public charge. Groups that fall under the purview of the rule are: (1) legal immigrants applying for adjustment of status (that is, applying for permanent residency, or a “green card”) and (2) immigrants applying for visas to gain admission into the United States. The public

Rachel Fabi, Ph.D., is an Assistant Professor of Bioethics and Humanities at SUNY Upstate Medical University in Syracuse, NY. Dr. Fabi works at the intersection of bioethics and public health policy, and her research focuses on access to health care for non-citizens. Lauren Zahn, M.A., serves as a research assistant at the Center for Bioethics and Humanities at SUNY Upstate Medical University in Syracuse, NY. Lauren’s main interests include the interplay between ethics and metaphysics, philosophical pessimism, and animal ethics, particularly the question of animal personhood.

charge test does not apply to all immigrants; humanitarian immigrants, such as refugees and victims of trafficking, as well as Lawful Permanent Residents (LPRs) applying for citizenship, are not impacted by the rule.³

Historically, the United States has considered the use of two public benefits when making a public charge determination in the context of an applicant's "totality of circumstances": (1) receipt of cash assistance for income maintenance, and (2) institutionalization for long-term care at government expense.⁴ Under the rule proposed by the Trump administration

below, this program was ultimately not included in the final rule.

In its proposed rule, DHS anticipated the total new costs imposed on applicants would range from approximately \$453,134,220 to \$1,295,968,450 over the course of the first 10 years.⁵ They also noted in the proposed rule that the added complexity of the public charge test would place a "time-burden" on applicants and officials.⁶ Under the proposed rule, those seeking legal permanent residency would be required to provide more extensive documentation, particularly regarding the benefits they receive and other consid-

We review a sample of the public comments on the proposed changes to the public charge rule to identify the moral and practical reasons that commenters used to support or oppose the proposed rule. We explore the themes that emerge from the comments in the context of the government's response in the finalized public charge rule from August 2019, subsequent court challenges to the rule, and the COVID-19 pandemic. Finally, we consider the value of public comments on proposed regulations related to immigration and immigrant health more generally.

in 2018, the public charge test would have considered additional factors in this determination. Although the totality of circumstances test is not new, having been in place since the now-defunct Immigration and Naturalization Service (INS) issued the "Field Guidance on Deportability and Inadmissibility on Public Charge Grounds" in 1999, the proposed rule would have changed what factors were given weight in the assessment. Determinations under the proposed rule would have been reached through a calculation that considered age, health, family status, assets, resources, financial status, education, and skill. For example, age would be a "positive factor" in the case of the 30-year old applicant, but enrollment in Medicaid would weigh more heavily in the determination. In this regard, the "totality" calculation involves a balancing of "positive" and "negative" factors. The public benefits included in the new calculation would also have been expanded; whereas previously the government only counted receipt of cash benefits and long-term institutionalization against an applicant, the proposed rule included other benefits like Medicaid, SNAP, and housing programs. The proposed rule also sought comment on whether to include the Children's Health Insurance Program (CHIP), but as will be discussed

erations. Officials would face "familiarization costs" associated with the proposed rule; "reading the details of [the] rule to understand its changes" will in itself "cost" time. In terms of savings, DHS estimates the "total reduction in transfer payments from the federal and state governments would be approximately \$2.27 billion."⁷ This estimate reflects money saved from both disenrollment and "forgone enrollment," which is money saved from "individuals that forego enrollment due to concern about the consequences to that person receiving public benefits and being found to be likely to become a public charge." DHS acknowledged the high likelihood of this "chilling effect."

Public Comment Process and Value

When an executive agency like DHS seeks to create new regulations or substantially revise existing ones, they must follow a prescribed process for doing so. This process, laid out in the 1946 Administrative Procedure Act (APA), involves the publication of a Notice of Proposed Rulemaking (NPRM) in the *Federal Register*, a set period during which the public may submit comments on the proposed rule, and the publication of a final rule along with a summary of the comments received and the agency's response to those comments. Regulatory officials are expected

to enter the rulemaking process without an “unalterably closed mind on matters critical to the disposition” of the issue at hand, such that comments submitted by the public may lead to substantive changes in the proposed rules.⁸ This “unalterably closed mind” standard is meant to ensure that public comments present a meaningful way for the public to participate in rulemaking, rather than civic engagement window dressing that gives agencies cover to proceed with whatever rulemaking they would have pursued regardless of public input. Although the standard is notoriously difficult to prove, requiring “clear and convincing” evidence of an unalterably closed mind, it suggests that the public comment process should be a valuable part of federal rulemaking.

A rich literature has examined the extent to which public comments are, in fact, valuable to the rulemaking process. Just as it is difficult to produce evidence of the open or closed nature of a regulator’s mind, it is also challenging to measure the effect that public comments have on final rules promulgated by executive agencies. There is something approaching a consensus around the idea that not all comments submitted are equally valuable. Scholars of administrative law often argue that “rulemaking is not and should not be a plebiscite,” in that comments are not merely “votes” for or against a proposed rule.⁹ In their paper “Rulemaking vs. Democracy: Judging and Nudging Public Participation That Counts,” Cynthia Farina et al. argue that “participation that counts requires reason-giving, and this will inevitably privilege some types of preferences over others.”¹⁰

Farina et al. identify the types of preferences expressed in comments as *spontaneous preferences*, which are “rapid, low-thought extrapolations from the individual’s general knowledge, underlying value system, and worldview”; *group-framed preferences*, such as those that might be shaped by advocacy groups via mass-mailing campaigns; *informed preferences*, which reflect “exposure to, and consideration of, reasonably full and accurate factual information about the issue”; and *adaptive preferences*, which are “informed preferences modified by an assessment of the larger socio-political environment.”¹¹ Perhaps unsurprisingly, executive agencies engaged in rulemaking often place more value on the latter two types of preferences. Additionally, Farina’s work distinguishes between comments made by rulemaking “insiders” and “outsiders.”¹² Insiders, like advocacy groups, industry, and trade associations, tend to rely on “empirical ‘objective’ evidence in the form of quantitative data and premise-argument-conclusion analytical reasoning,” while outsiders often provide “situated knowledge,”

which is “highly contextualized, experiential information, often communicated in the form of personal stories.”¹³ Although less value is placed on comments that impart situated knowledge, Farina et al. argue that it can supplement the expertise of regulatory insiders by providing information about the potential impacts, problems, enforceability, contributory causes, and unintended consequences of proposed rules.¹⁴

Given the various advantages of different sorts of comments, and especially those that provide situated knowledge, we believe that public notice and comment represents an important form of public engagement with the regulatory process. It is a way to “take the temperature” of the segment of the public that has an interest and the know-how to share their opinions. While of course the comment process cannot capture the full range of views, it does offer valuable insight into the moral and practical reasons that engaged members of the public find convincing. In this paper we analyze those reasons to identify the themes and subthemes that emerge from a critical reading of the comments in relation to moral principles and practical considerations that bear on an immigration policy that would likely chill the use of public benefits by immigrants.

Methods

Data Collection

All public comments submitted on the proposed changes to the public charge rule are available on the website www.regulations.gov under the docket number for the proposed rule (USCIS-2010-0012). The comment period lasted from October 10, 2018 to December 10, 2018, but submitted comments received within that window were continuously reviewed and posted for months following the close date for the comment period. In order to determine the sampling frame for the comments eligible for inclusion in the analysis, a cut-off date of February 10, 2019 was chosen.

Comments that were posted to www.regulations.gov after February 10, 2019 were excluded from the sampling frame; these comments may have differed from earlier comments in terms of the mode of submission, as comments submitted by mail or fax can take longer to process. The www.regulations.gov site excluded duplicates and near-duplicates from the public repository (i.e. only one comment from each mass-mailing campaign was posted). The sampling frame for data collection therefore included all unique comments posted between October 10, 2018 and February 10, 2019, a total of 55,074 unique comments.

In order to obtain a random sample of those 55,074 comments, StataSE was used to generate a list of 200

random integers between 1 and 55,074.¹⁵ The random integers were then appended to the regulations.gov docket number for the NPRM (e.g. USCIS-2010-0012-19544) to identify comments for inclusion. The text of each comment was then retrieved from regulations.gov and copied into an Excel spreadsheet, along with the signed name of the commenter, the posted and received date of the comment, and the organization the commenter claimed to represent, if any.

Data Analysis

Comments were analyzed using an iterative emergent thematic coding and constant comparison approach.¹⁶ This involved several stages, including data review, coding, and memo-writing. Prior to data review and throughout analysis, both team members wrote reflexive memos exploring their positionality, expectations, and beliefs with regard to the research topic to identify how their personal lens may influence their interpretation of data.¹⁷ Comments were then analyzed using Dupli Checker determine whether they included language found on the internet or in other comments.¹⁸ Next, all comments were imported into NVivo 12 for Mac OS to facilitate qualitative analysis.¹⁹ Team members reviewed the comments for whether they generally indicated support for or opposition to the proposed rule, which was coded as a binary variable. This was followed by the development of an initial hierarchical codebook using inductive open coding to identify themes and subthemes. Coders independently reviewed and coded sets of 10 comments using inductive thematic coding, with intercoder discussions, coding comparisons, and code reconciliation after each set to refine the codebook. Following 5 rounds of independent coding comparison, a hierarchical codebook was finalized and applied to all 200 comments in the sample, with new codes added and iteratively applied as appropriate following intercoder consultation. The coded data was then analyzed using coding matrices and data visualization for pattern matching, and team members wrote analytic memos summarizing the key elements of and relationships between each theme and subtheme.

Findings

The reasons commenters provided for supporting or opposing the proposed changes to the public charge rule generally fell into two overarching categories: moral reasons and practical reasons. Moral reasons are those reasons that appeal to ethical values or obligations derived from a conception of right or wrong action (e.g. “justice” or “human rights”). Practical reasons are those reasons that appeal to the interests of

citizens and legal residents (e.g., “public health” or “economics”).²⁰ Within each of those categories, we identified three major themes, some of which had identifiable subthemes. We now review the themes and subthemes that we identified in the public comments on the NPRM.

Moral Reasons

THEME 1: AMERICAN IDENTITY

Many commenters discussed the concept of American Identity and the importance of upholding the values it encompasses. Comments that fell under this theme often reflected a shared understanding of what and who America is, and many commenters drew from the country’s history in shaping that understanding. The subthemes included (1a) appeals to the U.S.’s history as a *country of immigrants*; (1b) appeals to the concept of the *American Dream*; and (1c) appeals to a wide range of *American values*.

SUBTHEME 1A: “COUNTRY OF IMMIGRANTS”

Within the broader theme of American Identity, one frequent subtheme was that of America as a “country of immigrants,” which commenters used to argue that the U.S. has a moral obligation to treat new immigrants with compassion. One commenter observed that “I learned in my American history courses in high school and college, and I was taught by my parents, that we are a nation proud of its immigrant background... This proposed change will eliminate from potential legal permanent status many immigrants who have much to contribute to the on-going story of America” (29210). Other commenters echoed the language about America’s reputation as an immigrant country, in several instances referring to the Statue of Liberty and the Emma Lazarus poem inscribed on its pedestal as emblematic of the nation’s historic commitment to immigration: “The inscription on the Statue of Liberty says: With silent lips. Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed to me, I lift my lamp beside the golden door! Don’t those words represent America, itself, anymore?” (47419). The significance of this quotation, and its August 2019 revision by a senior Trump administration official, will be further examined in the discussion section. Overall, however, it is important to note that many commenters emphasized the historically-grounded immigrant identity of the United States, frequently mentioning their own family’s immigrant background.

SUBTHEME 1B: “AMERICAN DREAM”

Another frequently mentioned subtheme within American Identity was the notion of the “American Dream,” which was explicitly named or implied by over 20% of commenters. Many commenters argued that the rule places the American Dream of creating a better life for one’s family, through hard work and ingenuity, beyond the reach of many immigrants. As one commenter put it, “like generations of immigrants, the new immigrants come with the ambition to achieve their ‘American Dream,’ which requires hard work. But they need that little push to make the transformative jump” (41905). Another commenter observed that the immigrants who are most likely to pursue and achieve the American Dream are “not the already wealthy immigrants ... but those who desperately want to create a better life for themselves and their children. They are the most innovative, determined, and courageous of their previous homelands” (41927). Commenters who mentioned the American Dream felt that the proposed rule directly contradicted America’s implicit promise that anyone, regardless of their socioeconomic status, could achieve a better life through hard work.

SUBTHEME 1C: AMERICAN VALUES

The third subtheme within American Identity were appeals to American values, which commenters defined in a variety of ways, while others declined to specify at all, instead appealing to the concept in a general way. This theme was common among both supporters and opponents of the proposed changes to the public charge rule. One supporter of the rule stated “I believe we should exclude people who have no skills and no work ethic. I want only those who value the American values, Declaration of Independence and want to bring value to our country. I do want people who are waving other flags, or speaking other languages unless they learn English, want to assimilate into our country and bring value to it [sic]” (50012). For this commenter, American values appear to include a work ethic and English speaking, but this view was not shared by most commenters. Nevertheless, some commenters agreed that hard work is an American value, but felt that the public charge rule would benefit people who did not uphold that value: “[the proposed rule] would keep out hardworking people without wealth, who may go on to contribute greatly to our society, while privileging other types like non-working wealthy [immigrants]. Not a good trade, in my opinion; hard work is a part of American values” (48162). Some appeals to American values included the suggestion that diversity was a core American

value. One commenter noted that “The proposed regulation violates the spirit of our country ... Our country was built on diversity, and this is what has made us a great and productive nation” (42252). Although this commenter appeals to the vague notion of the “spirit of American values,” they end with an appeal to diversity as a driver of American greatness and productivity. Some others did not specify the content of American values, letting the concept speak for itself: “These extremist, cruel and anti-immigrant measures betray our fundamental values” (11468).

THEME 2: AUTONOMY/RESPECT FOR PERSONS

The second major theme that emerged from the analysis of the moral reasons for supporting or opposing the new public charge rule was that the rule infringed on a moral obligation to respect the autonomy of individuals to pursue the life goals they deem important. The subthemes included (2a) distinguishing between dependence and assistance, (2b) forcing a choice between permanent residency and meeting basic human needs, and (2c) the inherent dignity and value of human beings.

SUBTHEME 2A: DEPENDENCE VS. ASSISTANCE

Several commenters emphasized the distinction between dependence and assistance, arguing that the rule fails to recognize the difference between the two. Based on the criteria of the proposed rule, a person’s use of public assistance programs is viewed as a sign of dependence. As one commenter notes, “public charge” is synonymous with “dependence” (6704). Under the rule, people who rely on the help of public assistance programs are deemed dependent. Any help, be it in the form of food, shelter, or health care, falls under the heading of dependence and counts against the applicant. Some commenters argued that all people, no matter the circumstance, need help at some point in their life. Those just getting on their feet, such as new immigrants, are in particular need of assistance. In the words of one commenter, however, the rule conflates assistance with dependence, and as a result, deprives immigrants of “that little push to make the transformative jump” (41905).

Commenters also called attention to the assumptions and biases built into the concept of public charge. One commenter who works with immigrants countered the image of the immigrant as a drain to society, describing how his clients “grudgingly accept public benefits because they come to the US with big dreams. They take them only when it is necessary. No sooner than they become self-sufficient do they end it” (41905). This story emphasizes that assistance is

often temporary, which is at odds with the definition and purpose of public charge. Several commenters also cited their own family history as illustrative of the rise to self-sufficiency with a “little push” of assistance, countering the core claim of the public charge rule. They argue that autonomy and independence are in fact facilitated by government assistance. Losing Medicaid, SNAP benefits, and other assistance programs undermines a person’s ability to achieve the goal of autonomy: the rule’s public charge definition impinges upon this moral right.

SUBTHEME 2B: FORCED CHOICE

Several commenters expressed doubt regarding the stated goal of the rule of bolstering autonomy by “better ensur[ing] that aliens subject to the public charge inadmissibility ground are self-sufficient, i.e., do not depend on public resources to meet their needs, but rather rely on their own capabilities.”²¹ These commenters argued that the rule actually violates the requirements of the principle of autonomy by forcing immigrants to make an “impossible” (54253) choice: either (1) stop receiving benefits from services that provide resources essential to life, health, and well-being, or (2) risk the loss of future permanent residency and, for families, face the possibility of separation. Commenters warned of the dangerous consequences of forcing vulnerable groups to make such a choice. In the words of one respondent, “No human being should have to decide, in a free country, between keeping all their family members together and receiving basic needs like food” (38807). Forcing immigrant families to choose would lead to sacrifice and risk regardless of the choice. Autonomy, these commenters argued, would be weakened by the restrictive choice set and its future-limiting impact.

SUBTHEME 2C: INHERENT DIGNITY AND VALUE

Commenters argued that the rule fails to uphold the inherent value and dignity of all persons. Under the rule, the degree to which an individual is (or is not) deserving of residency is determined by a consideration of a “totality of circumstances.” Some commenters felt that this determination was unethical because it defines deservingness in terms of external factors like “health, age, education, family, and English proficiency...in a way that treats them [as] less than human” (41667). The public charge rule, according to these commenters, violates a moral obligation to uphold the dignity and value of all persons, including those who use public benefits. They argued that human dignity transcends national, racial, socioeconomic, and other situated boundaries. As one com-

menter put it, “I believe in human dignity and the value of all persons, regardless of where they come from or how much money they have in their pockets” (6387).

THEME 3: DESERVINGNESS

The third major theme, deservingness, captures moral reasons relating to the characteristics that make an individual more or less deserving of access to public resources and benefits. The three primary subthemes that emerged are the various deservingness-determining characteristics of populations that would be affected by the revised public charge rule. These subthemes are (3a) contribution to society, (3b) immigration/citizenship status, and (3c) vulnerability.

SUBTHEME 3A. SOCIAL/ECONOMIC CONTRIBUTIONS AND DESERVINGNESS

Many commenters argued that immigrants deserve access to public resources and benefits because they contribute to and enrich the society that produces those benefits through hard work and social connections. One commenter wrote, “Immigrants come to this country to seek better opportunities. They are the hardest of workers and contribute to the patriotism and the energy of this country...Those coming to this country are looking to better their lives and their families’. While moving up in society, they help our economy as well!” (34483). Other commenters shared this view, often drawing on their family’s immigrant history to illustrate the potential contributions of immigrants: “All of my aunts and uncles have used public assistance when they first arrived in the US. Now over 40 members of my cousins, nieces, and nephews have graduated from college. As dentists, doctors, pharmacists, professors, computer scientists, accountants, nurses and business owners, we are adding to the financial and cultural vitality of America” (41667). These commenters share an implicit belief that current or future contributions to American society entitle immigrant individuals and families to the same benefits available to American citizens.

In addition to emphasizing the societal contributions of immigrants, many commenters argued that economic contributions of immigrants created reciprocity obligations. However, a few commenters in support of the change argued the converse: that immigrants do not contribute and therefore they do not deserve public resources. It should be noted that most of these commenters did not recognize that the rule only applies to legally present immigrants, and instead, directed their deservingness arguments against undocumented immigrants. One such com-

menter wrote that “I support the implementation of all methods that stop the flow of illegal aliens who are not [sic] going to abuse and use resources they did not contribute to, or by citizenship, be entitled to” (10080). This commenter was one of several in our sample who supported the rule but believed that its purpose was to restrict the use of federal benefits by undocumented immigrants, a restriction already in place. This relates directly to the “immigration status” subtheme within the overarching “deservingness” theme.

SUBTHEME 3B: IMMIGRATION STATUS AND DESERVINGNESS

As mentioned above, most supporters of the rule believed that it targeted the use of benefits by undocumented immigrants (for example, one commenter simply wrote “No more free rides for illegals who take our jobs as well. Deport them they are here as CRIMINALS” (48877). Indeed, of the 18 comments in our sample supporting the proposed rule change, 13 indicated that they supported it because they opposed “illegal” immigration, and only two of the other five provided reasons for their position. The vast majority of commenters opposed the rule change, and a substantial portion of commenters argued that the legal status of the affected population mattered morally. Specifically, the arguments about legal status from the opposing commenters were often that the affected immigrants were legally present, and therefore were deserving of public resources and benefits. One commenter expressed this view, observing that “while [the] U.S. government rationale for current policies has focused on legalities of unauthorized immigration status, changes in [the] public charge rule would punish families who are ‘following the rules’” (48677). This appeal to rule-following highlights the justice-based nature of the deservingness argument, which is essentially that those who “follow the rules” should be treated similarly to others who also follow the rules.

SUBTHEME 3C: VULNERABILITY AND DESERVINGNESS

The deservingness theme also includes a “needs-based” argument that vulnerable people deserve help by virtue of their vulnerability. One commenter linked this obligation to foundational values, saying “As a nation founded on Judeo-Christian values and humanist principles, we are called to protect families, children, and the vulnerable” (6387). Another described how the rule requires us to “turn our back against those who need our help the most: the sick, the young, the old, and the poor” (36672). This commenter suggests that conditions that put a person or group in a vulnerable position in the social landscape,

such as age, poverty, poor health, or discrimination at large, deserve assistance, and that to do deny them assistance is to “turn our back against them.”

Under the proposed rule, however, deservingness takes these factors into account in a negative way. Deservingness of public benefits is determined by weighing an applicant’s “totality of circumstances,” with certain factors counting for and against the applicant, such as medical status, age, financial conditions, and number of dependents. Essentially, those characteristics that commenters suggest contribute to vulnerability, such as medical need, advanced age, low socioeconomic status, and disability are counted against an immigrant’s case for permanent residency. “This rule,” in the words of one commenter, “will disproportionately harm the most vulnerable in our society, including children, pregnant women, older adults, and families living paycheck to paycheck” (1600). Commenters expressed dismay at this reversal of the link between vulnerability and deservingness, arguing that those who need help are fundamentally deserving of such help, not despite their vulnerability, but precisely because of it. They should be given that help; not doing so, according to some commenters, is a moral failure.

Practical Reasons

Unlike moral reasons provided by commenters, which focus on values and ethical obligations towards immigrants derived from various conceptions of right and wrong, practical reasons focus instead on those reasons that promote the relevant but not intrinsically moral interests of citizens and immigrants.²² The reasons for supporting or opposing the changes to the public charge rule that can most accurately be described as “practical” include the major themes of *health-related* reasons and *economic* reasons. Each of these categories of practical reasons contained multiple subthemes, described below.

THEME 4: HEALTH-RELATED REASONS

Many commenters emphasized the deleterious effects the public charge rule would have on health. These arguments emphasized that the public charge rule would have a (1) chilling effect on immigrants’ use of health care, which would ultimately be harmful their health, and which in turn would have (2) negative effects on citizen health.

SUBTHEME 4A. CHILLING EFFECT AND IMMIGRANT HEALTH

Many commenters argued that the public charge rule would have a “chilling effect” on immigrants’ use of

health care services, meaning that even if it didn't directly affect their eligibility for insurance or services, it would affect their willingness to enroll in or use insurance to obtain health care and other necessary social services. As one commenter wrote, "This policy will devastate all our communities by making immigrants and their family members afraid to access essential health, nutrition and shelter programs. Immigrant communities, will now live in fear of seeking supports they need — regardless of whether they are actually subject to the public charge test" (15547). The concern that the chilling effect would extend beyond the population directly affected by public charge determinations to include all immigrant populations, including those not subject to public charge, was widespread. One commenter who cited literature argued that the effect would be "particularly stark for children ... As the American Academy of Pediatrics [AAP] notes, many families applying for green cards would choose not to seek essential benefits. The Fiscal Policy Institute estimates that 'chilling effect' [of] these rules would cause would extend to 24 million people in the United States, including 9 million children" (17625). This is dramatically different from the proposed rule's estimates that only 324,438 people would forego or disenroll from public benefits.²³

Of course, many commenters who did not offer statistics on the chilling effect nevertheless felt it was a dangerous move that would have far-reaching health consequences, as many illustrated with personal anecdotes and experiences. One commenter wrote, "I am a Patient Navigator and work closely with immigrant families to ensure that they are accessing their necessary medical care. Without these resources, my clients will not be able to afford services such as primary care visits, surgeries, and prenatal care" (39017). Another commenter described a patient whose health would be harmed by the public charge rule, saying "I think of 'S,' a young immigrant woman who is currently receiving chemotherapy for cancer... She is a straight-A student. She has dreams for her future. I would hate for her family to have to stop her treatment or to even have the weight of that decision. It would be cruel to deny her care" (48677). Personal anecdotes like these were extremely common in the comments; the value of lived experience in public comments is considered in the discussion section.

4B. EFFECTS ON CITIZEN HEALTH

In addition to detailing the potential effects of the new public charge rule for immigrants, many commenters also described the potential harms to citizen health that could result from the policy. These arguments

often relied on the communicable nature of health and disease. As one commenter wrote, "[The rule] would increase the incidence of childhood diseases like chickenpox, measles, mumps and rubella and deter parents from vaccinating their children. This is dangerous not only to individuals but to communities as a whole" (12906). That immigrants live in deeply intertwined communities with non-immigrants and that their health prospects cannot be disentangled from those of their neighbors was a common argument, and often included concern about both communicable and non-communicable health statuses. Another commenter who shared this view wrote "Research suggests that the proposed rule would lead to worse health outcomes and widening health inequities related to issues such as prevalence of communicable diseases, rates of poverty and housing instability, and educational attainment. Furthermore, immigrants avoiding health care as a result of this change may lead them to forgo services such as immunizations, which could increase the chance of future disease outbreaks" (9395). This comment seems particularly prescient in a post-COVID-19 world, when anecdotal evidence suggests that the public charge rule may have had exactly this effect on the outbreak.²⁴

Another way in which the public charge rule could harm citizen health, according to some commenters, is through the effect it could have on immigrant health workers. One commenter addresses this issue explicitly, saying:

Immigrants comprise 1 in 6 American workers, and are crucial to meeting the demand for low to middle skill positions in nursing homes, such as certified nurse aides (CNA) or personal care aides (PCA). These essential care workers have median wages close to or below the poverty threshold. Programs like SNAP, CHIP, and Medicaid are designed to help these lower-income individuals meet their families' basic needs to keep them healthy and safe. [The policy] will have a downstream effect on care to seniors and residents of these nursing facilities that rely on immigrant workers to fill CNA and PCA positions. (50136)

This specific example of the harms that public charge might cause for immigrant health workers who take care of older adults in the U.S. illustrates the broader effect that the rule might have in other areas of the health work force, including immigrant physicians, PAs, and nurses who may also have families who use some public programs or use public programs them-

selves. The harms to the health care workforce, commenters suggested, could have far-reaching consequences for Americans in need of health care.

Theme 5: Economic Reasons

Economic reasons are those reasons rooted in costs, savings, and economic well-being for individuals and for American society at large. The subthemes within this category include arguments regarding (4a) immigrant contributions to the economy and (4b) the policy's effect on health care costs.

SUBTHEME 5A: IMMIGRANT CONTRIBUTIONS TO THE ECONOMY

Many people who submitted comments opposing the proposed changes to the public charge rule argued that the rule was ill-considered because immigrants contribute to the economy. For some commenters, this was a moral “deservingness” argument, as described above, but for many others, the fact that immigrants contribute to the economy was a practical concern. This argument hinged on the concern that public charge would cause immigrants to retreat from the economy; as one commenter put it, the public charge rule change would be “an economy-killer: chasing away many millions of productive people, hard-working people, doing the dirty work of American society... [Immigration] builds and grows an economy, not weakens it” (31097). Another commenter was more specific about the possible economic harms of the change, noting that:

The economic loss to communities would be great. Loss of property taxes from housing, sales taxes, federal and state income and Medicare taxes from employment, as well as many other sources of revenue to public and nonprofit entities will be lost. Banks will lose accrued interest on investments, loan interest from business loans, and investment from immigrant savers and borrowers. Mortgage lenders will be affected just as banks (51703).

Arguments like these, which suggested that immigration is a “net plus” (14951) to the economy, and that the public charge rule would harm the economy, were common.

SUBTHEME 5B: THE POLICY'S EFFECT ON HEALTH CARE COSTS

Not all practical economic arguments were grounded in the big picture of the American economy. Instead, some focused on the economic impact solely of the

anticipated increase in health care costs that might be associated with a decrease in immigrant access to health care. One commenter representing a civil society organization wrote that “Delayed care or care administered in inappropriate settings, such as hospital emergency rooms for non-emergency situations, leads to increased costs to communities and places an unnecessary burden on safety-net facilities, already operating on tight budgets, to provide even more uncompensated care” (50136). Commenters who wrote about the effect of the public charge rule on health care costs often made the logical connection from less access to insurance to less access to preventive care, which can result in an increased need for higher costs over the long term. One pediatrician commenter wrote:

Good preventative medicine allows us to identify health conditions early, on allowing for better control and less overall cost to the medical system. We also are able to emphasize healthy behaviors relating to eating, substance use and safety. All of these interventions have been shown to reduce future healthcare costs in multiple different studies. (0554)

Another pediatrician shared an anecdote about a child whose parents' fear of the immigration implications of seeking care kept her away from seeing a doctor until her condition had worsened. This pediatrician wrote that “If her family had felt safe bringing her to the doctor earlier she could have avoided hospitalization all together. Clearly this hospitalization was much more costly than a simple prescription for oral antibiotics” (7501). This theme, about the economic implications of discouraging immigrants from obtaining primary care by limiting access to public insurance, was quite common, and often paired with other themes related to the health effects of the public charge rule discussed above.

Discussion

The wide range of practical and moral reasons provided by commenters on the public charge rule illustrates the diversity of justifications that enter into the public dialog around immigration-related public policy. And yet, despite the fact that over 96% of commenters in our sample opposed the changes to the public charge rule, the Department of Homeland Security ultimately promulgated a final rule that imposed a significant burden on legally-residing immigrants who use public benefits. How are we to understand the relationship between the reasons given against the rule by an over-

whelming majority of commenters and the finalized rule? And given that the final rule did not significantly change to reflect the arguments made by commenters, what is the value of the public comment process for regulations that affect immigrant health? And finally, what lessons can we take from the ongoing legal challenges to the public charge rule in light of the COVID-19 pandemic and the Biden administration's decision to stop defending the rule? In this section, we discuss the questions and suggest several policy implications for future immigrant health and social policy.

The Final Rule

When DHS issued the final rule on August 14, 2019, it included several notable changes from the proposed rule. The NPRM had specifically requested input from the public on whether CHIP should be included in the set of public benefits that bear on an immigrant's "totality of circumstances." As the findings above indicate, DHS received a flood of responses arguing that the use of public benefits by children, including CHIP, should not be considered in a public charge determination. In the final rule, DHS excluded the use of CHIP or Medicaid by immigrants under the age of 21, as well as the use of these benefits by pregnant people. Additionally, DHS decided to exclude Medicare Part D Low-Income Subsidies (LIS) in response to comments that pointed out the extensive work requirements that determine eligibility for Medicare Part D LIS.²⁵ Although these changes were responsive to the comments DHS received, the majority of the proposed rule remained intact.

DHS is legally required to summarize and respond to every comment they receive, either individually or by grouping together comments with similar themes, much like the analysis performed in this manuscript. A comparison of DHS's summary with the analysis could therefore provide insight into the value DHS placed on the various moral and practical reasons commenters provided, although a thorough comparison might merit a separate publication altogether. The agency's summary can be distilled to its main themes by examining the subheadings in the table of contents of the final rule under the heading "Comments Expressing General Opposition to the NPRM," which include, among others:

- Purpose of the Rule and Self-Sufficiency
- Discrimination and Disparate Impact
- Potential Disenrollment Impacts
 - Choice Between Public Benefits and Immigration Status
 - General Assertions as to Effects

- Housing Benefit-Related Effects
- Food and Nutrition Benefit-Related Effects
- Health Benefit-Related Effects
- Effects on Vulnerable Populations
- Effects on U.S. Citizens
- Increased Costs to Health Care Providers, States, and Localities
- Inconsistent with American Values and Historic Commitment to Immigrants
- Contributions to American Society and Consideration of Self-Sufficiency²⁶

Many of these themes match exactly the themes identified by our analysis.

The Department's response to the comments in each theme, however, was nearly uniform rejection of either the premise or the importance of the points raised by commenters, coupled with an assertion about the importance of self-sufficiency. For instance, in response to the many comments that the proposed changes were un-American and/or unethical, DHS responded:

While immigration and diversity have strengthened the United States, DHS strongly disagrees that this rule is motivated by fear or greed, or is un-American or immoral. DHS does not seek to frustrate the United States' long-standing commitment to family unity, humanitarian relief, and religious liberty through this rule. DHS also disagrees that this rule re-shapes, penalizes, or impedes the overall flow of legal immigration, and disagrees that the rule puts lawful permanent resident status beyond the reach of working-class and poor immigrant families ... Through this final rule, DHS seeks to better ensure that applicants are self-sufficient.²⁷

Rather than substantively engaging with the points raised by the hundreds of thousands of commenters who opposed the rule for the reasons summarized here, DHS simply rejected the premise.

Throughout the response, DHS acknowledged that the proposed rule would likely have negative effects in many of these areas. The agency reiterated again and again, however, that the purpose of the rule was to increase self-sufficiency among immigrants living in the United States, and asserted that "DHS disagrees with the commenters that ensuring the self-sufficiency of immigrants is unnecessary, or that a lack of self-sufficiency is a non-existent problem... [S]elf-sufficiency has been a basic principle of United States

immigration law since this country's earliest immigration statutes and [it] should continue to be a governing principle in the United States."²⁸ Despite the overwhelming evidence that commenters disagreed that self-sufficiency should be the driving factor in determining whether an immigrant should receive legal permanent residency, DHS and the Trump administration pushed forward with the rule. In a

included in a public charge determination at the urging of commenters, we argue that these comments serve several other important purposes. These include providing valuable information about message-framing that could be useful for policymakers hoping to pursue immigrant-friendly policy in the future, as well as providing reasoning and data that can be used in legal challenges to the rule itself.

This analysis does not claim to yield definitive answers as to the “correct” reasons for supporting or opposing a policy. Indeed, it does not even go so far as to suggest which reasons are most convincing, or which may be the most effective in the crafting of future immigration and social welfare policy. Such conclusions would be impossible to draw from public comment data, which is inherently biased by the engagement necessary to submit a public comment to an executive agency, let alone the tenuous connection between empirical bioethics data and normative truth. Instead, what this analysis of public comments yields is a trove of information on the wide range of views politically engaged U.S. residents hold on immigration policy as it relates to immigrant health. Describing and examining these views can be used to frame discussions of the moral and practical challenges that flow from enacting policies that treat immigrants differently from other U.S. residents.

widely reported interview about the publication of the final rule, acting director of U.S. Citizenship and Immigration Services (USCIS) Ken Cuccinelli misquoted the poem inscribed on the Statue of Liberty, saying “Give me your tired and your poor who can stand on their own two feet and who will not become a public charge.”²⁹ Cuccinelli's intentional misquotation stands in stark contrast to the many commenters who correctly quoted the poem in their response to the NPRM as evidence of the rule's violation of fundamental American values. In our sample, four commenters quoted the original poem, suggesting that the poem represents core values and that the administration's position is at odds with those values.

Value of Public Comments

Given the obvious disconnect between the moral and practical reasons given by commenters for opposing the NPRM and the reasons for finalizing the rule given by DHS, it would be reasonable to ask what value, if any, derives from the public comment process. Aside from the exclusion of CHIP and Medicaid for children and pregnant women from the list of programs

Earlier we discussed Farina et al.'s work on the categorization of types of public comments and the preferences they express, including spontaneous preferences, group-framed preferences, informed preferences, and adaptive preferences.³⁰ Although this paper does not seek to categorize the types of comments received by DHS on the proposed changes to the public charge rule, the comments we analyzed here cover the range of types, from spontaneous to adaptive, and included views from both regulatory insiders and outsiders. We do not distinguish between these types in our analysis, but would note that all types of comments are a valuable source of information on the reasons that are convincing to stakeholders, including those directly affected by the proposed rule change and those indirectly affected as community members and fellow U.S. residents.

We also do not explicitly note when comments are clearly low-information, as evidenced by their inclusion of false statements or beliefs, but we feel that these types of comments also provide useful information on the perception of a policy, regardless of whether that perception is correct. For example, many

of the supporters of the proposed rule change argued that it should be enacted because it would stop undocumented immigrants from accessing public benefits. This belief is false, but its persistence among proponents of the policy change suggests that their opposition to the policy may be rooted in a more general anti-immigrant animus. On the other hand, comments from opponents of the policy change were often grounded in appeals to their situated knowledge: pediatricians described the negative impact the proposed rule would have on their patients, while citizens with immigrant family histories discussed the ways access to public benefits helped them pursue the “American Dream.” These types of comments, some of which may be expressing spontaneous preferences, are nonetheless useful for understanding the types of moral and practical reasons motivating commenters to engage on a question of public policy.

This analysis does not claim to yield definitive answers as to the “correct” reasons for supporting or opposing a policy. Indeed, it does not even go so far as to suggest which reasons are most convincing, or which may be the most effective in the crafting of future immigration and social welfare policy. Such conclusions would be impossible to draw from public comment data, which is inherently biased by the engagement necessary to submit a public comment to an executive agency, let alone the tenuous connection between empirical bioethics data and normative truth. Instead, what this analysis of public comments yields is a trove of information on the wide range of views politically engaged U.S. residents hold on immigration policy as it relates to immigrant health. Describing and examining these views can be used to frame discussions of the moral and practical challenges that flow from enacting policies that treat immigrants differently from other U.S. residents.

Aside from this somewhat intangible value of public comments and their analysis, the comments are also useful for establishing that the government failed in its regulatory duties when promulgating a rule. Although a full accounting of the many legal challenges to the final rule is beyond the scope of this paper, we briefly consider one injunction to the rule issued in October 2019, and the 2020 decision that vacated the rule nationwide, to illustrate how public comments can affect legal challenges to regulations.

In the preliminary injunction issued by the United State District Court in the Northern District of California, the court considered several challenges to the final rule, including a consideration of whether the rule was “arbitrary and capricious,” a standard under the APA that “focuses on the reasonableness of

an agency’s decision-making processes.”³¹ Under this standard, “agency action is invalid if the agency fails to give adequate reasons for its decisions, fails to examine the relevant data, or offers no ‘rational connection between the facts found and the choice made.’”³² In issuing its injunction, the court found that DHS failed to adequately consider and respond to comments that documented the costs and benefits of the change to the rule. These costs and benefits aligned with many of the practical reasons commenters provided for opposing the rule change, including economic and public health arguments. With regard to the government’s response to comments on the costs and benefits of the rule change, the court states:

[E]ven under the deferential APA analysis, DHS appears to have wholly failed to engage with this entire category of comments. DHS failed to grapple with the Rule’s predictable effects on local governments, and instead concluded that the harms — whatever they may be — are an acceptable price to pay. At minimum, the APA requires more than reading public comments and responding with a general statement that, however correct the comments may be, the agency declines to consider the issues and costs identified because doing so would contravene the government’s favored policy.³³

The court enumerated several other types of comments that DHS failed to engage with and found that the plaintiffs (the state of California, several counties within California, and several immigrant health organizations) were likely to succeed on the merits of an “arbitrary and capricious” claim.

In parallel litigation, the Northern District of Illinois issued an opinion on November 2, 2020 that vacated the public charge rule. That decision quoted the Seventh Circuit, which held:

Even assuming that the term “public charge” is ambiguous and thus might encompass more than institutionalization or primary, long-term dependence on cash benefits, it does violence to the English language and the statutory context to say that it covers a person who receives only *de minimis* benefits for a *de minimis* period of time. There is a floor inherent in the words “public charge,” backed up by the weight of history. The term requires a degree of dependence that goes beyond temporary receipt of supplemental in-kind benefits from any type of public agency.³⁴

The Seventh Circuit also noted that DHS “did not acknowledge or address the significant, predictable collateral consequences of the Rule,” much of which was described in the comments DHS received. Thus, the District Court decision, which applied nationwide, held that the Trump administration’s public charge rule was “substantively and procedurally invalid under the APA.”³⁵ Although this decision was stayed the next day, the Biden administration ultimately withdrew its defense of the Trump-era public charge rule, making the District Court’s decision final and leading USCIS to revert to the 1999 Interim Field Guidance for determining public charge.³⁶ Speaking about the choice to withdraw from defending the rule, DHS Secretary Alejandro N. Mayorkas noted that “The 2019 public charge rule was not in keeping with our nation’s values. It penalized those who access health benefits and other government services available to them.”³⁷ Although there is no explicit indication that Secretary Mayorkas read the public comments, these sentiments clearly reflect the same views expressed by the many commenters who opposed the proposed changes to the public charge rule.

Conclusion

In addition to several injunctions delaying the start of the public charge rule change, parts of the final rule’s implementation were effectively postponed by DHS itself in response to the start of the COVID-19 pandemic in early 2020 (before, as noted above, being effectively withdrawn by the Biden administration). The rule went into effect in most of the country on February 24, 2020, mere weeks before the country began to shut down in response to the growing number of cases. DHS quickly issued guidance stating:

To address the possibility that some aliens impacted by COVID-19 may be hesitant to seek necessary medical treatment or preventive services, USCIS will neither consider testing, treatment, nor preventative care (including vaccines, if a vaccine becomes available) related to COVID-19 as part of a public charge inadmissibility determination.³⁸

In issuing this guidance, DHS essentially acknowledged that the arguments of many commenters who opposed the rule were correct: the public charge rule would result in a chilling effect that discouraged immigrants from seeking care for communicable diseases, and that communicable diseases do not

care about citizenship status. This was echoed by yet another nationwide injunction against the new public charge rule issued by the U.S. District Court for the Southern District of New York (SDNY) in July 2020 that enjoined the rule from going into effect during a declared national health emergency (like COVID-19), although this injunction was ultimately removed by the Second Circuit.³⁹ Nonetheless, the obvious public health risks presented by a policy that discourages immigrants from seeking health care in the middle of a global pandemic underscore the relevance of the moral and practical reasons commenters provided for opposing the rule change.

This paper has examined the moral and practical reasons that commenters provided for supporting or opposing the proposed changes to the public charge rule. This analysis draws on comments submitted by motivated and engaged members of U.S. society during the public notice-and-comment period, which limits the transferability of these findings to the general population. Additionally, this analysis cannot (and does not seek to) determine the morally “correct” reasons for supporting or opposing a policy that affect immigrant health, but rather catalogs the sorts of reasons that engaged people found important enough to write to the federal government about. The descriptive nature of this project is thus both a limitation and a strength, as it limits the implications of the findings to the political, rather than the normative. Nonetheless, as the discussion has shown, the identification of compelling reasons can be useful for policymakers seeking to frame their support for immigrant-friendly health policies that they believe are morally correct.

Although the Trump administration’s public charge rule is no longer in effect, the comments on the rule offer valuable insight into the reasons that can frame pro-immigrant immigration, health, and social policy. Future research in this area should measure the framing effects of the moral and practical reasons that this exploratory qualitative study identified as anchoring immigrant-friendly policy positions. Survey work that draws on the findings of this paper could ascertain which moral and practical frames are the most effective at garnering political support for a policy, especially among politically engaged people who have the motivation to comment on proposed policy. Such information could be useful for policymakers and advocacy groups as they attempt to promote more just health policy. Although there is much more work to be done, both in promoting immigrant health through policy and in understanding the value of public comments to the

regulatory process, this exploration of the public charge rule serves as an illuminating case study in both.

Acknowledgements

We would like to thank Dr. Daniel Goldberg, Dr. Brendan Saloner, and Dr. Amy Caruso-Brown for their comments on this manuscript.

References

1. Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41292, (Aug 14, 2019).
2. Immigration Act of 1882, Pub. L. No. 47-376, 22 Stat. 214 (1882).
3. *Supra* note 1.
4. Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28689, (Mar 26, 1999).
5. See “Summary of Costs and Benefits,” *supra* note 1, at 41300.
6. *Id.*
7. *Id.*
8. *Association of National Advertisers, Inc. v. Federal Trade Commission.*, 627 F.2d 1151 (D.C. Cir. 1980).
9. C.R. Farina, M. Newhart, and J. Heidt, “Rulemaking vs. Democracy: Judging and Nudging Public Participation That Counts,” *The Michigan Journal of Environmental & Administrative Law* 2, no. 1 (2012): 123-172.
10. *Id.*
11. *Id.*
12. C.R. Farina, D. Epstein, J. Heidt, and M. Newhart, “Knowledge in the People: Rethinking ‘Value’ in Public Rulemaking Participation,” *Wake Forest Law Review* 47, no. 5 (2012): 101-155.
13. *Id.*
14. *Id.*
15. StataCorp, State/SE: Stata Statistical Software, V. 15, StataCorp, Mac OS, 2017.
16. K. Charmaz, “Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis,” in *Qualitative Research Methods For Health Professionals*, ed. P.A. Field and J.M. Morse (California: Sage, 1995).
17. M.Q. Patton, “Enhancing the Quality and Credibility of Qualitative Analysis,” *Health Services Research* 34, no. 5 (1999): 1189-1208.
18. Dupli Checker, “Plagiarism Checker,” *available at* <<https://www.duplichecker.com>> (last visited June 21, 2022).
19. QSR International, NVivo, V. 12, QSR International, Mac OS, 2018.
20. J.W. Nickel, “Should Undocumented Aliens Be Entitled to Health Care?” *Hastings Center Report* 16, no. 6 (1986): 19-23.
21. *Supra* note 1, at 41295.
22. Of course, the delineation between the two is not always black-and-white, as many moral reasons may be grounded in practical interests.
23. See *supra* note 1, Table 51, at 41176
24. U.L. McFarling, “‘We’ll Be Deported’: Immigrants Fear Seeking Covid-19 Tests or Care,” STAT News, April 15, 2020, *available at* <<https://www.statnews.com/2020/04/15/fearing-deportation-many-immigrants-at-higher-risk-of-covid-19-are-afraid-to-see-testing-or-care>> (last visited June 8, 2022).
25. *Supra* note 1 at 41297.
26. *Id.* at 41292.
27. *Id.* at 41314.
28. *Id.* at 41306.
29. S. Ingber and R. Martin, “Immigration Chief: ‘Give Me Your Tired, Your Poor.’ Who Can Stand On Their Own 2 Feet,” NPR, April 13, 2020, *available at* <<https://www.npr.org/2019/08/13/750726795/immigration-chief-give-me-your-tired-your-poor-who-can-stand-on-their-own-2-feet>> (last visited March 22, 2022).
30. *Supra* note 9.
31. *City & Cty. of San Francisco v. U.S. Citizenship & Immigration Servs.*, 408 F. Supp. 3d 1057, 1104 (N.D. Cal. 2019), *appeal dismissed sub nom. La Clinica de La Raza, Inc. v. Trump*, No. 19-17483, 2020 WL 1170719 (9th Cir. Feb. 4, 2020), *aff’d sub nom., City & Cty. of San Francisco v. United States Citizenship & Immigration Servs.*, 981 F.3d 742 (9th Cir. 2020).
32. *Id.*
33. *Id.*
34. *Cook Cnty. v. Wolf*, 498 F. Supp. 3d 999 (N.D. Ill. 2020).
35. *Id.*
36. Immigrant Legal Resource Center, “Public Charge Timeline,” last updated September 2021, *available at* <https://www.ilrc.org/sites/default/files/resources/public_charge_timeline_updated.pdf> (last visited June 8, 2022).
37. “DHS Secretary Statement on the 2019 Public Charge Rule,” Department of Homeland Security, March 9, 2021, *available at* <<https://www.dhs.gov/news/2021/03/09/dhs-secretary-statement-2019-public-charge-rule>> (last visited June 8, 2022)
38. U.S. Citizenship and Immigration Services, “Policy Manual, Chapter 10 – Public Benefits,” last updated February 10, 2021, *available at* <https://www.uscis.gov/sites/default/files/document/policy-manual-resources/PMVolume8PartGChapter10_external-archive.pdf> (last visited June 8, 2022).
39. *Supra* note 36.