



Mayor's Office of
Immigrant Affairs
Bitta Mostofi
Commissioner

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Testimony of Commissioner Bitta Mostofi
NYC Mayor's Office of Immigrant Affairs

Before a hearing of the New York City Council Committee on Immigration:

**“Public Charge and Pre-considered Introductions T2019-4982, T2019-4983, T2019-4984,
and T2019-4985, and Pre-considered Resolution T2019-4981”**

Thank you to Chair Menchaca and the members of the Committee on Immigration. My name is Bitta Mostofi and I am the Commissioner of the Mayor's Office of Immigrant Affairs (MOIA). I am joined today by Human Resources Administration (HRA) Administrator Grace Bonilla, as well as staff from other agencies for Q&A.

Just a few weeks ago, the Trump Administration published a regulation that is meant to change when certain immigrants are considered a "public charge" for immigration purposes, and makes it harder for those immigrants to receive a green card or certain visas. This rule, which discriminates against people with disabilities, seniors, and people of color in the name of "self-sufficiency," was fundamentally flawed from its conception.

The City knows firsthand that immigrants make our communities stronger, and that supporting immigrants in accessing the services they need produces long-term benefits. The Trump Administration's view of "self-sufficiency," on the other hand, is based on falsehoods and biased thinking and runs counter to the reality of how immigrants contribute to our country. Immigrants pay the same taxes we all do: federal income tax, social security tax, Medicare tax, property tax, state income tax, sales tax, and so on. Immigrants are business owners, and some of the most successful businesses in the U.S. were started by immigrants or their children. In New York City, immigrants own half of all businesses¹ and are engaged at high levels in the labor force.²

Moreover, these benefits grow in the second generation. As adults (25+), the children of immigrants are among the strongest economic and fiscal contributors in the U.S. population, contributing more in taxes per capita than either of their parents or the rest of the native-born population.³

Given this reality, it is impossible to see this final rule as anything other than an attack on the American ideal: the vision of Lady Liberty, also known as the Mother of Exiles, welcoming "your tired, your poor, and your huddled masses" for generations.

I am particularly concerned with the widespread fear and confusion that this rule has incited even in those who are not affected by the rule. At the outset, I want to emphasize that this rule has not yet gone into effect. It does not affect all immigration applications and it does not affect all immigrants. For that reason it is extremely important for immigrants to get information and help before unnecessarily withdrawing from or foregoing benefits.

As a City, we have been preparing for this rule since the beginning of the Trump Administration. Our preparation has led to sustained advocacy and public education on this issue. The City submitted two comments on the proposed rule, including one in conjunction with cities across the nation. We have repeatedly engaged stakeholders, including elected officials with

¹ 2017 1-year American Community Survey Public Use Micro Sample data.

² New York City Mayor's Office of Immigrant Affairs, State of Our Immigrant City: MOIA Annual Report for Calendar Year 2018, 19, available at https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report%202019_final.pdf.

³ National Academies of Sciences, Engineering, and Medicine. 2017. The Economic and Fiscal Consequences of Immigration. Washington, DC: The National Academies Press. <https://doi.org/10.17226/23550>.

information about the rule and its impact. For almost a year we have prepared our ActionNYC hotline for an influx of calls about the rule by adding staff to provide immediate consultations on the phone to help individuals understand whether the rule applies to them, and by working with partners to create capacity for referrals for urgent legal consultation. And we have developed detailed factsheets and conducted research on messaging.

This testimony will provide a very brief overview of the rule, highlight the City's response and MOIA's role in that response, and address the bills at issue today.

The Final Rule

Categories of affected immigrants

As I stated, changes to the "public charge" rule have not gone into effect.⁴ The final rule was published on August 14, and it will become effective on October 15, 2019, unless the courts say otherwise.

The "public charge" rule applies only to a narrow subset of immigrants. Those applying for a green card, changing or extending certain visas, and applying for "admission" under the immigration laws would be affected by the final rule. But many, if not most, noncitizens in New York City, will not be subject to the "public charge" test or will be able to seek a waiver. This includes refugees, asylees, certified victims of human trafficking or U or T visa recipients, VAWA self-petitioners, Special Immigrant Juveniles, those with Temporary Protected Status, and more. In addition, there is no "public charge" test when green card holders apply for citizenship.

What the final rule changes

Turning now to the final rule itself, the term "public charge" is used in immigration law to deny admission or a green card to someone based on their likelihood to depend on the government for support in the future. For the past two decades this rule has been limited in scope, because studies showed that an overbroad, vague rule could have devastating public health and nutrition consequences.⁵

Despite this longstanding policy, the final rule changes the definition of "public charge" and creates a new, overbroad test that will disproportionately harm immigrants of color, immigrants with disabilities, and immigrants with limited resources when they seek to change status. This will primarily affect family-based immigration. The rule will make it harder for immigrant families who are subject to the rule to obtain green cards or certain types of visas if they use or

⁴ "Public charge" assessments are already happening under this new standard at U.S. consulates. This may affect individuals who are applying for immigration benefits from overseas, sponsoring a family member abroad, or traveling abroad to apply for a green card or visa.

⁵ See Fix M, Passel J. Urban Institute Discussion Paper, The scope and impact of welfare reform's immigrant provisions (2002), available at http://webarchive.urban.org/Uploadedpdf/410412_discussion02-03.pdf (finding that the passage of the welfare reform law was associated with a 23 percent decrease in Medicaid enrollment among low income adult LPRs and 58 percent decrease among adult refugees, even though refugees were exempt from the changes.).

may be likely to use certain public benefits.

The final rule changes how closely the federal government scrutinizes factors such as an individual's age, education, employment history, income, assets, and health conditions, among other factors, when determining whether an immigrant is likely to become a "public charge" in the future – even if the individual has never used benefits in the past.

The final rule also increases the number of programs that will be considered when evaluating whether someone is a "public charge." In addition to cash assistance, the government will now consider use of additional benefits as evidence that someone is a "public charge." The additional benefits listed in the final rule are Medicaid, SNAP, public housing, and Section 8 housing assistance. For Medicaid, there are some exceptions, including for pregnant women, children, emergencies, and more. To reemphasize, benefits use is just one factor in addition to the other factors I just mentioned in the overall test for who is likely to become a "public charge."

Logistically speaking, these changes will also lead to increased paperwork, with applicants needing to provide additional documentation.

The harms of the rule

We have argued against this rule since it was first proposed because it will needlessly harm the public health, safety, and economic security of New York City. This is not news: as I noted, over 20 years ago the federal government came to the same conclusion.⁶ While the rule itself only affects a small subset of all non-citizens, we know that it will create fear and confusion in the immigrant population more generally, with our preliminary analysis showing that hundreds of thousands of New Yorkers could be affected by the chilling effects. We have already heard concerning anecdotes of immigrants withdrawing from important benefits due to fear and misunderstanding about who the rule affects.

For example, even before the final rule was published, DOHMH saw that anxiety and confusion was causing some clients to withdraw from or refuse to enroll in Medicaid and CHIP. DOHMH staff have reported that clients sought to disenroll or declined to enroll in Medicaid or CHIP, saying that they were concerned about the program's effect on their immigration status or that their immigration attorneys advised them to do so. In addition to foregoing health insurance, DOHMH staff reported that some of their clients have declined services, while others have shown reluctance to engage with them or use services, even though these services are not covered as "public benefits" under the final rule.

In order to help address the fear, DOHMH's Bureau of Primary Care Access and Planning provided training to its frontline staff for public-facing programs, explaining the "public charge" rule and providing guidance for staff to address client inquiries and concerns. DOHMH is also planning another round of briefing to frontline staff at various divisions and bureaus now that the final rule has been published.

⁶ Inadmissibility and Deportability on Public Charge Grounds, 64 FR 28676, 28680 (1999).

In addition, since rumors of the public charge rule began circulating in 2017, there has been a marked drop in non-citizen SNAP cases. Administrator Bonilla will testify more about this chilling effect and the steps HRA has taken to address it.

City's response and MOIA's role

The City is fighting this rule with every tool at our disposal, including litigation. The City recently partnered with the New York State Attorney General's office in a legal challenge to this final rule.

As the case continues, we are engaged in a variety of other strategies, including engaging partners and community members to share accurate information and resources about public benefits and immigration, connecting immigrants to legal services, and working with agency partners to ensure that immigrant New Yorkers can continue to access the services and resources they need.

Connection to legal services

The City is committed to assisting all New Yorkers, regardless of immigration status, in getting the information and legal assistance they need to make the best decisions for themselves and their families as to their usage of public benefits. To reemphasize: it is crucial that all New Yorkers who are concerned about whether the "public charge" rule will affect them get trustworthy legal help before taking any action related to their public benefits. As noted above, the new regulation is not yet in effect and, if and when it does come into effect, only certain immigrant New Yorkers will be affected in their immigration applications.

Over the last several months, we have worked closely with the legal service provider community and other partners to ensure the availability of legal assistance about "public charge." The ActionNYC hotline, funded by the City of New York and operated by Catholic Charities, can provide immigrants with information about the rule and, where needed, connect callers to legal help and appointments. ActionNYC is also working with partners at the Legal Aid Society, supported by Robin Hood, and NYLAG, the New York Legal Assistance Group, to coordinate requests for assistance and address urgent cases.

In addition, in a few days on September 9 and 10, we will be holding a two-day phone bank with partners at Catholic Charities, Univision, El Diario, the Office of New Americans, Legal Aid Society, the New York Immigration Coalition, Hispanic Federation, and NYLAG where New Yorkers may call in to speak with an immigration legal expert who can answer questions about "public charge." We will also be holding a Facebook Live panel with legal experts on September 12.

We have also worked to make sure that all immigration legal service providers, including those from smaller organizations, have access to the most up-to-date analysis about the "public charge" regulation. Working with experts at CLINIC, the Catholic Legal Immigration Network Inc., we have disseminated training materials to ActionNYC providers and are also working on a New

York City-specific webinar for immigration legal service providers that will also be made available to private attorneys representing immigrants.

Outreach and information-sharing

The City's leaders have continued to share information and resources with immigrant New Yorkers during the rule-making process. The Mayor, our Cities for Action coalition, and our partners at the Department of Social Services (DSS), NYC Health + Hospitals, and others have publicly condemned the "public charge" final rule and shared information about how to connect with legal services. Our outreach staff on the ground are conducting numerous field engagements as well. Senior administration staff have also spoken at houses of worship and in communities to share information about the final rule.

When news about the final rule broke, we shared information digitally to our many partners. On August 13, when we first received news that the final rule would be published, we sent an update to over 9,000 people, including our community partners, elected officials, and agency partners, including the Department of Social Services, NYC Health + Hospitals, and the Administration for Children's Services. Understanding that this initial information would generate more questions, we then held briefings for elected officials, advocates, faith leaders, and our agency partners. Additionally, MOIA created and shared a social media toolkit so that different City agencies could share relevant and easy-to-understand information about the "public charge" rule with their networks.

On August 25, MOIA hosted a Day of Action to address immigrant New Yorkers' concerns about the new "public charge" rule. MOIA staff, partners, and volunteers handed out thousands of informational flyers at over a dozen grocery stores across the five boroughs to empower residents to make the best decisions for themselves and their families and not needlessly forgo public benefits to which they are entitled.

We have also engaged with the press, recognizing the need for clear, accurate information about this final rule in order to combat the fear and confusion we are already seeing. We have participated in press conferences with our partners at the New York Immigration Coalition and Asian American Federation, and coordinated media appearances with local media outlets including WNYC, 1010 WINS, PIX11, Univision, and NY1.

Ensuring continued access to services and resources

MOIA, in partnership with City agencies, is also involved in planning for mitigation of the harms of the final rule if it goes into effect. Specifically, we are in discussions with various partners about how to ensure that New Yorkers will still be able to get the help that they need, even if the final rule prevents them from accessing certain public benefits or creates fear and chills access.

The City is committed to serving all New Yorkers, regardless of immigration status, and eligibility of City services and benefits have not changed. As just one example, all patients are welcome at NYC Health + Hospitals, regardless of immigration status or ability to pay. Through NYC Health + Hospitals and NYC Care, we are ensuring that even those without insurance have access to the affordable health care they need.

Similarly, the City is in close conversation with those community-based organizations who provide emergency assistance to those in crisis. My colleagues at DSS, for example, have been engaged with emergency food assistance providers to ensure that we understand the current need and keep abreast of any trends. We will continue to monitor the impact of the “public charge” final rule, and are prepared to support immigrant communities.

Proposed bills

Moving now to the pre-considered bills, we are grateful that we have been able to work closely with the Council around “public charge.” We look forward to continuing to work with you as we contend with the fear and confusion already created in the communities we serve.

I want to say at the outset that our goal as a City has always been to address the fear and misinformation circulating around the “public charge” rule. One of the devastating aspects of the “public charge” rule is how much it has harmed people who are not named or subject to the rule. For that reason, our overriding goal is to ensure that we as a City are not feeding the false narrative that the Trump Administration wants immigrants to buy into. We want immigrants to access the services they need. Again, most immigrants who are eligible for public benefits are not subject to the “public charge” rule.

We certainly support the intent of the bills to ensure that New Yorkers are armed with the information and resources they need in this difficult time. As I noted above, MOIA is working closely with our partners at DSS/HRA, Department of Homeless Services, the Department of Housing Preservation and Development, and the New York City Housing Authority and others to insure that relevant staff understand the scope of the rule and how it will affect the populations they serve. In addition, we have engaged those partners on how they should refer people to immigration legal services.

Relatedly, MOIA is developing information to be shared with DOE in multiple languages in order to inform parents and families about the “public charge” final rule and how to seek legal assistance to understand how this rule will affect them. As we found in our survey on “public charge,” the most effective messaging we can share at this time is how to seek legal advice about the rule.⁷

MOIA has also been working since the proposed rule was published to ensure that our ActionNYC hotline would be able to address the influx of calls about “public charge.” This includes adding new staff to provide crucial and immediate screening information for individuals unsure about whether the rule applies to them. We partnered with the Legal Aid Society and New York Legal Assistance Group in addition to our primary ActionNYC partner Catholic Charities to ensure availability of urgent legal consultations for those who need immediate legal

⁷ NYC Mayor's Office of Immigrant Affairs, *NYC Fact Sheet: Public Charge Messaging Survey Findings* (2019), available at <https://www1.nyc.gov/assets/immigrants/downloads/pdf/NYC-Public-Charge-Messaging-Fact-Sheet-2019-05-30.pdf>.

advice. ActionNYC is the best referral to make for people unsure about how the final rule will affect them.

We look forward to working together with the Council on these bills, to ensure that we are providing links to invaluable information about “public charge” and its effects, without stoking the misinformation circulating in our communities.

Conclusion

We understand that this rule is complicated and frightening. Many of our immigrant families are concerned about how this final rule will affect them. I want to end today’s testimony by reiterating that that the rule is not yet in effect. Our goal is to ensure that the courts strike down this rule. It does not apply to all immigrants. Nor does it apply to all immigration applications. It does not apply to citizenship applications. Many categories of immigrants are exempted.

I urge all of you who have questions and concerns to please get legal advice through ActionNYC. You can call 311 or call 1-800-354-0365 and say “public charge” to be connected with free and safe legal guidance to make an informed and empowered decision for you or your loved ones.

The Trump Administration’s idea of who deserves to be here is based on a racist vision of a white, rich America; a vision that is out of touch both with American principles and with the reality of how the contributions of immigrants to this country improve the lives of all. We will do everything in our power to make sure that idea does not become reality.

Thank you again to Chair Menchaca for calling this hearing today. I look forward to answering your questions.