



August 25, 2016

U.S. Citizenship and Immigration Services,
Department of Homeland Security
Washington, D.C.

OMB Control Number 1615-0023; USCIS-2009-0020

Re: Comments on U.S. Citizenship and Immigration Services, OMB Control Number 1615-0023, Agency Information Collection Activities: Application To Register Permanent Residence or Adjust Status, Form I-485, and Adjustment of Status Under Section 245(i), Supplement A to Form I-485; Revision of a Currently Approved Collection

Dear Sir or Madam:

Thank you for the opportunity to comment on the federal notice concerning an information collection request regarding the estimated public burden of Form I-485, the Application to Register Permanent Residence or Adjust Status. 81 Fed. Reg. No. 143 (484336, July 26, 2016) and previously published in the Federal Register on March 31, 2016, at 81 FR 18636.

The Center for Law and Social Policy (CLASP) advocates for public policies and programs at the federal, state, and local levels that reduce poverty, improve the lives of poor people, and create ladders to economic security for all. We identify and seek to tear down barriers that hold people back due to their race, ethnicity, immigrant status, or geography, as well as low income.

We ask that you consider the following comments:

Questions 61 and 62 of Part 8 of the I-485 Form

It is our belief that rather than clarifying the agency's rules on public charge, the proposed Form I-485 and its accompanying instructions may increase confusion and fear among immigrant families. Immigrant families who already face barriers to accessing publicly funded assistance may be even less likely to apply for critical benefits for which they or their family members might be eligible, which will result in negative social and public health consequences for American communities. In 2014, 17.5 million children ages 18 and younger – one quarter of all children in the U.S. -- lived with at least one immigrant parent.¹ Public benefits, including nutrition assistance, health insurance, and other supports, are vitally important for many of these children's well-being.

¹ <http://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states#Children%20with%20Immigrant%20Parents> Accessed August 24, 2016.

The Need to Conform the I-485 Form to Existing USCIS Policy

USCIS must act to address “considerable public confusion about the relationship between the receipt of federal, state and local public benefits” and “public charge” determinations in immigration law.² Questions 61 and 62 of Part 8 on Form I-485 fail to distinguish between cash and noncash benefits.

Recommendations:

If questions pertaining to the use of public benefits are deemed necessary, we recommend that they be revised to track the rules governing the public charge grounds for admissibility, and inquire only about benefits that are relevant to public charge determinations. We offer the revised questions below as recommendations:

- *Have you received Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or cash welfare from state and local income assistance programs?*
- *Have you been in long-term institutional care—such as in a nursing home or mental health institution—paid for by Medicaid?*

The Instructions for Form I-485 should be revised to track the long-standing USCIS policy on public charge. We recommend the following revisions to the public charge instructions on page 7:

~~In Part 8., Item Numbers 61. and 62., you must include all only cash welfare received or believe that you are likely to receive from the U.S. Government or a U.S. state or local government, or if you have received long-term institutional care, such as in a nursing home or mental health institution, paid for by Medicaid. Receiving public assistance does not necessarily make you ineligible for adjustment of status. but USCIS needs to know all types of U.S. Federal, state, and local public benefits you have received, or believe you are likely to receive, in order to determine relevancy to the public charge analysis.~~

Additionally, the Instructions for Form I-485 should include a section explaining these questions by:

- Specifying that noncash benefits such as SNAP, Medicaid, CHIP, WIC, housing benefits, child care assistance, energy assistance, emergency disaster relief, foster care and adoption assistance, education assistance, Head Start, and job training are not considered in the public charge determination. Instructions for Form I-485 should clarify that immigrants should feel safe accessing the above forms of non-cash assistance and that receipt of public benefits does not affect eligibility for citizenship.
- Specifying that receipt of monthly cash benefits for income maintenance purposes—SSI, TANF, cash from state and local income assistance programs and long-term institutional care—may be considered as a factor in the public charge determination, but does not automatically make an individual ineligible to adjust status to lawful permanent residence on public charge grounds.

The Importance of These Recommended Changes

Discouraging citizen children from receiving benefits has lasting negative consequences for both those children and society. Children’s and mothers’ access to health insurance during pregnancy and in the first months of life is linked to significant reductions in infant mortality, childhood deaths, and the incidence

² U.S. Department of State Foreign Affairs Manual Volume 9, Fam 40.41 Public Charge, INA 212(A)(4) <http://www.state.gov/documents/organization/86986.pdf> (last visited Oct. 10, 2012).

of low birthweight.³ Recent rigorous studies of both SNAP and public health insurance have demonstrated the positive effects of access as a child to these safety net programs on life outcomes into adulthood. For example, a paper by the National Bureau of Economic Research finds that having access to SNAP in early childhood improves adult outcomes including health and economic self-sufficiency.⁴ Expanding health insurance coverage for low-income children has large effects on high school completion, college attendance, and college completion.⁵ Child care assistance can help support both family economic stability as parents are able to work and children's access to quality child care that supports their healthy development.⁶ Given the large share of children in immigrant families, any policy that intentionally or inadvertently discourages families from accessing benefits that contribute to their children's wellbeing can have lasting impacts on our youngest citizens and their ability to succeed in life.

In our research on immigrant families' access to child care and early education, conversations with immigrant service providers and others revealed that fear related to public charge was a barrier to families accessing child care assistance, Head Start and other programs children were eligible for, despite these programs not triggering public charge related consequences.⁷ It is understandable why immigrants are wary of applying for noncash benefits. Other research confirms that across a wide range of benefit programs, otherwise eligible immigrant households express reluctance to apply for help based on a belief that receipt of benefits for themselves and/or US citizen household members might impact either a parent's application for permanent residency or citizenship or the family's ability to bring other family members to the United States.⁸ Without adequate instructions for Form I-485, the proposed language may reinforce these concerns among immigrant families, including those lawfully present and including many with citizen children. Moreover, because misconceptions about policy are often transmitted within a community, this language will have repercussions far beyond the number of people who fill out this form.

The misunderstandings of USCIS policy related to public charge would only be made worse if questions 61 and 62 of Part 8 of Form I-485 are not corrected. Moreover, because these questions on the adjustment forms are overly broad, asking about the use of public benefits generally, including those that are not relevant to the public charge inquiry, the resulting responses and data collected would likely be flawed and lacking in practical utility.

We are grateful for your consideration of these comments.

Sincerely,

Elizabeth Lower-Basch
Director, Income and Work Supports

³ Kaiser Commission on Medicaid and the Uninsured, *The impact of Medicaid and SCHIP on Low-income Children's Health*, Henry J. Kaiser Family Foundation, 2009, <https://kaiserfamilyfoundation.files.wordpress.com/2013/01/7645-02.pdf>.

⁴ Hilary W. Hoynes, Diane Whitmore Schanzenbach, and Douglas Almond, Long Run Impacts of Childhood Access to the Safety Net, Working Paper, National Bureau of Economic Research, November 2012, <http://www.nber.org/papers/w18535>.

⁵ Sarah Cohodes, Samuel Kleiner, Michael F. Lovenheim, et al., *The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions*, Working Paper No. 20178, National Bureau of Economic Research, May 2014, <http://www.nber.org/papers/w20178>.

⁶ CLASP, *Child Care Assistance: A Vital Support for Working Families*, 2015, <http://www.clasp.org/resources-and-publications/publication-1/CCDBG-Advocacy-Fact-Sheet.pdf>

⁷ <http://www.clasp.org/resources-and-publications/files/0356.pdf>

⁸ <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413260-Barriers-to-Immigrants-Access-to-Health-and-Human-Services.PDF>