

Congress of the United States
Washington, DC 20515

September 21, 2022

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528

Dear Secretary Mayorkas:

We are writing today to express our pressing concerns about the Department of Homeland Security's (DHS) decision to exclude non-cash federal assistance programs from the public charge rule. The impact of this ill-considered action, set to begin on December 23, 2022, will fundamentally destabilize the necessary reform the Trump Administration made in this area of the U.S. immigration system. *Therefore, we request that you immediately rescind your September 2022 public charge rule¹ and issue a new rule to reinstate the use of non-cash federal assistance programs in inadmissibility determinations.*

The United States welcomes more immigrants to its shores than any other country, with more than one million people arriving every year as permanent legal residents, asylum-seekers, and refugees.² Our nation prides itself on having hard-working and self-reliant immigrants that contribute to the country's economic prosperity. In passing the public charge law,³ Congress explained that immigrants should not rely on public resources, but rather rely on their own capabilities and the resources of their sponsors.⁴ It is irresponsible for the Biden Administration to counter congressional intent by disregarding this goal.

In 2019, the Trump Administration implemented the public charge rule to allow for the inclusion of non-cash entitlement programs in its calculations.⁵ Including these programs when determining public charge grounds for inadmissibility was a step in the right direction and a net plus for our economy. As the welfare state continues to grow, so do the country's trillion-dollar budget deficits and increase in public debt. Currently, there are more non-cash federal programs for low-income individuals than there are cash-based programs.⁶ In fact, federal dollars spent on Medicaid alone amount to more than the government spends on all cash programs combined.⁷ This demonstrates the impracticality of excluding a significant source of federal funds when determining whether an immigrant will be a public charge.

¹ Public Charge Ground of Inadmissibility, 87 Fed. Reg. 55472 (Sept. 9, 2022).

² *International Migration*, U.S. DEPARTMENT OF STATE, <https://www.state.gov/other-policy-issues/international-migration/#:~:text=The%20United%20States%20hosts%20more,and%20in%20other%20immigration%20categories> (last visited Sept. 13, 2022)

³ 8 U.S. Code § 1182 (a)(4).

⁴ 8 U.S. Code § 1183 (a)(1)(A).

⁵ Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41292 (Aug. 14, 2019).

⁶ *Federal Spending on Benefits and Services for People with Low Income: FY2008-FY2020*, CONG. RESEARCH SERV., Dec. 8, 2021, <https://crsreports.congress.gov/product/pdf/R/R46986>.

⁷ *Id.*

The Biden Administration's failed agenda, under your stewardship, has caused a humanitarian crisis at our southern border and eliminated public confidence in our immigration system. Since President Biden took office nearly 4.9 million immigrants have illegally crossed U.S. borders.⁸ It is estimated this will cost taxpayers an additional \$20.4 billion a year on top of the \$140 billion burden illegal immigration imposes on the U.S. each year⁹ Senseless policies such as reinstating catch-and-release, ending the Migrant Protection Protocols, and failing to finish the southwest border wall are all direct causes of these record-breaking numbers. The intended change to the public charge rule is the latest in this long list of failures and will further cripple our immigration system.

Consideration of whether an immigrant will become a public charge when determining admissibility is meant to guarantee the success of U.S. immigration policies. Equally important, this consideration is meant to create an environment where legal immigrants are encouraged to work and prosper. This is vital to a functioning and modern immigration system. Therefore, we request that you immediately rescind your September 2022 public charge rule¹⁰ and issue a new rule to reinstate the use of non-cash federal assistance programs in inadmissibility determinations.

In addition, we request the following specific information regarding the DHS's final rule on the changes to the interpretation of "public charge":

1. What process was used to determine which types of benefits (cash-versus non-cash-based) will be considered?
2. Why will non-cash benefits not be considered given they amount to a significant source of federal funding for low-income individuals?
3. Compared to the previous six years, how many fewer people does DHS estimate will be considered public charges under this new rule?
4. Compared to the previous six years, how many more people does DHS estimate will apply for non-cash benefits once this rule is implemented?

Thank you for your attention to this urgent matter. We respectfully request a response to these questions by September 30, 2022.

Sincerely,



Mike Johnson
Member of Congress



Troy E. Nehls
Member of Congress

⁸ Press Release, FAIR, FAIR Analysis: 4.9 Million Illegal Aliens Have Crossed our Borders Since President Biden Took Office (Aug. 16, 2022), <https://www.fairus.org/press-releases/border-security/fair-analysis-49-million-illegal-alien-have-crossed-our-borders>.

⁹ Press Release, FAIR, FAIR Reveals that Illegal Aliens Released Into the U.S. Under Biden Will Cost American Taxpayers an Additional \$20.4 Billion Annually (Sept. 13, 2022), <https://www.fairus.org/press-releases/presidential-administration/workforce-economy/fair-reveals-illegal-alien-released>.

¹⁰ Supra, note 1.



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Member of Congress



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Member of Congress



Andy Biggs
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Brian Babin
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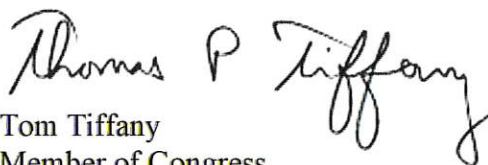
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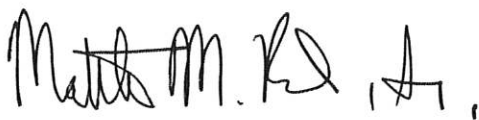
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