

No. 19-3591

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

STATE OF NEW YORK, et al.,
Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, et al.,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
THE HONORABLE GEORGE B. DANIELS, U.S. DISTRICT JUDGE
CASE NO. 19-CV-7777

**BRIEF OF AMICI CURIAE 26 COUNTIES, CITIES,
AND MUNICIPALITIES IN SUPPORT OF PLAINTIFFS-APPELLEES AND
AFFIRMANCE**

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, *amici curiae* are governmental entities for whom no corporate disclosure is required.

Dated: January 31, 2020

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INTEREST OF AMICI CURIAE AND SUMMARY OF ARGUMENT¹

The Cities of Los Angeles and Oakland, California, together with the Counties of Harris, Texas and Los Angeles, California, and 22 cities and counties from nearly every region of the nation (“Amici”), submit this brief in support of Plaintiffs-Appellees and the District Court’s order in this case.² SA 1 (the “Preliminary Injunction Order”).

Collectively, Amici represent over 30 million people, including millions of residents who are immigrants or the children of immigrants. Amici have primary responsibility for promoting and protecting the health and welfare of their communities. *See, e.g., Hillsborough Cty., Fla. v. Automated Med. Labs., Inc.*, 471 U.S. 707, 719 (1985) (residents’ health and safety are “primarily, and historically, matters of local concern”). From hospitals to housing, Amici operate many of the basic governmental programs that sustain the health and welfare of American communities. Amici run safety-net hospitals, clinics, and emergency services. Amici also provide housing support to blunt the impact of the nation’s accelerating housing crisis, food assistance to provide a boost to needy families, and foster care

¹ All parties have consented to the filing of this brief. No party’s counsel authored this brief in whole or in part, and no person or entity other than Amici or their counsel made a monetary contribution intended to fund the preparation or submission of this brief. *See Fed. R. App. P.* 29(a)(4)(E).

² A complete list of Amici is set out in Appendix A.

services to protect children. As a result, Amici are the primary backstop against the interconnected needs of U.S. communities.

The Final Rule on the public charge ground of inadmissibility³ (the “Rule”) challenged in this action is already affecting many of Amici’s critical services and threatens to cause grave harm to the health and welfare of Amici’s communities and millions of residents. While at the time of filing the Rule has been in effect for less than a week, the longer the Rule remains in effect the more profound the impact to Amici and their residents. The District Court’s nationwide injunction barring implementation of the Rule was the only thing standing between Amici’s residents and the damage that the Rule is likely to cause; now that the U.S. Supreme Court has permitted the Rule to go into effect across Amici’s jurisdictions, the effects Amici have already observed will only deepen. As a result, Amici have a significant interest in these proceedings and urge the courts to move rapidly toward staunching the Rule’s effects.

Amici submit this brief to provide the Court with additional detail on the scope and nature of the likely outcomes as the Rule takes effect. Put simply, the Rule will make Amici’s populations sicker and poorer. It will increase homelessness and withdraw the traditional supports that have allowed working

³ Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (Aug. 14, 2019) (to be codified at 8 C.F.R. pts. 103, 212-14, 245, & 248).

Americans to achieve a better life for themselves, their children, and their neighborhoods. Its impact will not be limited to those who cannot support themselves, nor even to immigrants. Rather, its effects will reverberate—and are already felt—throughout Amici’s entire communities.

ARGUMENT

The public benefits at issue in this Rule empower individuals and strengthen communities. They enable low-income individuals to attain and maintain self-sufficiency,⁴ provide a strong multiplier for economic growth,⁵ and increase access to health care.⁶ Low-wage workers often need a small boost to achieve self-sufficiency—in many communities where even full-time minimum wage jobs cannot support a family’s basic needs, public benefits are the lifeline to stable housing, economic resiliency, and ultimate self-sufficiency.

Conversely, reductions in the availability of public benefits inflict harms not only on the individuals who rely on them, but on the communities that benefit from

⁴ See, e.g., Cal. Pol’y Lab, *Strengthening the Social Safety Net and Health Equity*, <https://perma.cc/HSF3-TSNT>.

⁵ For instance, one set of studies found “every \$1 invested in public health in California resulted in \$67 to \$88 of benefits to society.” J. Mac McCullough, Academy Health, *The Return on Investment of Public Health System Spending* (2018), <https://perma.cc/AD7H-9L4V>.

⁶ Hamutal Bernstein et al., Urban Inst., *Safety Net Access in the Context of the Public Charge Rule 17* (Aug. 2019), <https://perma.cc/PY62-4PLG>.

their contributions and the local governments charged with their care. Many individuals will avoid benefits because they do not want to jeopardize their immigration status, but their needs will remain the same. The Rule effectively forces local governments to step in and redirect their own resources to support this population in a less efficient and robust manner. It forces Amici to fill the gaps and remedy the cumulative effects created by immigrant public benefit withdrawal, including in the housing, medical, and nutrition realms.

I. The Rule Will Cause—And Is Already Causing—Immigrants to Choose Immigration Status Over Critical Services.

The Rule is designed to force immigrants to choose between accessing basic governmental services and the ability to attain legal status. While immigrants generally increase economic output and have a more positive fiscal impact on the nation than native-born Americans, in the short term, even working immigrants and their children benefit from receiving incremental support on the way to complete self-sufficiency.⁷ Under the Rule, accepting services can mean loss or denial of legal status, which robs Amici’s jurisdictions of immigrants’ contributions. DHS itself recognizes that immigrants will choose legal status over

⁷ Ryan Nunn et al., Brookings Inst., Hamilton Project, *A Dozen Facts about Immigration* 13 (Oct. 2018), <https://perma.cc/DK6F-TTQL>.

these critical supports.⁸

As the District Court found, this is not a speculative harm. SA 19-20. Since the Administration announced the Rule, members of Amici’s immigrant communities are already making alarming trade-offs. The comments and data submitted to DHS and Amici’s own experience suggest that the “chilling effect” of the Rule in Amici’s jurisdictions is severe, began before the Rule was implemented, and extends to programs and individuals that are not covered by the Rule.⁹

For example, from the Los Angeles Care Health Plan (“LA Care”), the nation’s largest public health plan, to the Harris County Public Hospital System, Amici’s partners report calls from members requesting information on how to

⁸ See, e.g., Inadmissibility on Public Charge Grounds, 84 Fed. Reg. at 41,312-13 (“DHS acknowledges that individuals subject to this rule may decline to enroll in, or may choose to disenroll from, public benefits for which they may be eligible . . . in order to avoid negative consequences as a result of this final rule.”).

⁹ While comments and studies were submitted and conducted, respectively, before the Rule was promulgated, they highlight the predictable effects of the Rule change. Indeed, in a related context, changes to the definition of public charge in the Foreign Affairs Manual led to a twelve-fold increase in denials of immigration applications on public charge grounds. Memorandum in Support of Plaintiffs’ Motion for a Preliminary Injunction at 47, *Make the Road New York, et al. v. Pompeo*, No. 1:19-cv-11633-GBD (Jan. 21, 2020). As the Rule goes into effect, similar immigration consequences are likely—and benefit withdrawal and other negative consequences will only increase.

disenroll from health care programs as well as actual disenrollment.¹⁰ LA Care anticipates that as many as 2.4 million individuals in Los Angeles County alone may withdraw from public health care.¹¹ Nationwide, approximately 13.5 million enrollees in Medicaid and the Child Health Insurance Program, including 7.6 million children, live with a noncitizen or are noncitizens themselves. They may forgo access to life-saving health care as a result of the Rule.¹²

In addition to health care, many immigrants and their families are likely to disenroll from food assistance programs like the Supplemental Nutrition Assistance Program (“SNAP”). A recent study suggests that up to 2.7 million U.S. citizen children could lose SNAP access as a result of the policy change.¹³ Community partners in Oakland have noticed that immigrant parents are already

¹⁰ John Baackes, L.A. Care Health Plan, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 10, 2018), Docket No. USCIS-2010-0012-36667; George V. Masi, Harris Health System, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 3, 2018), Docket No. USCIS-2010-0012-33297.

¹¹ *Baackes, supra* note 10, at 2.

¹² Kaiser Family Found., *Changes to “Public Charge” Inadmissibility Rule: Implications for Health and Health Coverage* (Aug. 12, 2019), <https://perma.cc/A2LD-23SG>.

¹³ Jennifer Laird et al., *Forgoing Food Assistance out of Fear: Simulating the Child Poverty Impact of Making SNAP a Legal Liability for Immigrants*, 5 *Socius* 1, 5 (2019), <https://perma.cc/QT7U-6VV3>.

afraid to access benefits like CalFresh for their U.S. citizen children.¹⁴

Moreover, the Rule’s impact extends far beyond those individuals and services who are targeted.¹⁵ Since the Rule was published, immigrant service providers have reported that it has “felt like a monumental task” to “convinc[e] parents they don’t have to opt out of benefits for their children.”¹⁶ Amici have also seen reports of residents declining to access other important services that are not covered under the Rule, including preventative and prenatal care.¹⁷ Likewise, community partners have reported declines in housing-related services paid for entirely by the County of Los Angeles.¹⁸ These damaging withdrawals will only

¹⁴ East Bay Community Law Center, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 8-9 (Dec. 10, 2018), Docket No. USCIS-2010-0012-52784.

¹⁵ See, e.g., *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. at 41,313 (“DHS appreciates the potential effects of confusion regarding the rule’s scope and effect.”).

¹⁶ Leila Miller, *Trump Administration’s ‘Public Charge’ Rule Has Chilling Effect on Benefits of Immigrants’ Children*, L.A. Times (Sept. 3, 2019), <https://perma.cc/FC5C-YCG4>.

¹⁷ Helen Branswell, *Federal Rules Threaten to Discourage Undocumented Immigrants from Vaccinating Children*, STAT News (Aug. 26, 2019), <https://perma.cc/KW5N-W5E8>; Steven Nish, Los Angeles Best Babies Network, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* (Dec. 9, 2018), Docket No. USCIS-2010-0012-42481; Minneapolis, MN Mayor Jacob Frey, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 3 (Dec. 7, 2018), Docket No. USCIS-2010-0012-29261.

¹⁸ Diego Cartagena, Bet Tzedek Legal Services, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 3-4 (Dec. 9, 2018), Docket No. USCIS-2010-0012-52651.

accelerate as the Rule is implemented and individuals experience negative immigration consequences, or fear them as they hear of others' experiences.

The Rule will also reduce enrollment in school meal and other programs. Current policy automatically enrolls students whose families receive SNAP benefits in the federal free and reduced-price school meal program.¹⁹ Thus, even though school meal programs are not covered by the Rule, children in immigrant families who avoid SNAP are less likely to receive school meal programs as well.²⁰

II. The Rule Will Irreparably Harm Local Governments by Reducing Vital Housing, Health Care, and Nutrition Supports.

If this Court permits the Rule to go into effect, local jurisdictions will suffer immense harm to the well-being of both their communities and their balance sheets. DHS itself estimated that individuals who disenroll from public assistance would lose benefits amounting to over \$100 million annually.²¹ Localities, which are responsible for the public health, housing, and nutrition of their residents, will be forced to fill this funding gap and grapple with the compounding consequences of the Rule's chilling effects. This challenge is even greater for localities, like

¹⁹ Valerie Strauss, *Six Ways Trump's New 'Public Benefits' Immigration Policies Could Hurt Children and Schools*, Wash. Post (Aug. 23, 2019), <https://perma.cc/URJ9-S6TC?type=image>.

²⁰ *Id.*

²¹ DEP'T OF HOMELAND SEC., REGULATORY IMPACT ANALYSIS: INADMISSIBILITY ON PUBLIC CHARGE GROUNDS 2 (2019).

California's counties, that manage public hospitals and will suffer significant fiscal harm should the Rule be enacted.

A. The Rule Will Increase Homelessness and Exacerbate Existing Housing Crises.

The Rule significantly contributes to the existing housing and homelessness crisis afflicting Amici's communities, the burden of which already falls disproportionately to local governments.²² This burden will continue to surge as the Rule is implemented.

First, by threatening the medical, nutrition, and other public benefits that provide the incremental boost working families need to achieve self-sufficiency, the Rule threatens low-income residents' tenuous grasp on housing. In the current U.S. labor market, many workers have no choice but to combine their earnings with some form of government assistance—however minor—to make ends meet.²³ Nationwide, more than 80 percent of low-income households spend more than 30 percent of their income on housing.²⁴ In Los Angeles County, one-third of

²² Joint Ctr. for Hous. Studies of Harvard Univ., *The State of the Nation's Housing 2017* 35; Joint Ctr. for Hous. Studies of Harvard Univ., *The State of the Nation's Housing 2019* 35-36 [hereinafter *The State of the Nation's Housing 2019*].

²³ See Danilo Trisi, *Trump Administration's Overbroad Public Charge Definition Could Deny Those Without Substantial Means a Chance to Come to or Stay in the U.S.*, Ctr. on Budget & Pol'y Priorities (May 30, 2019), <https://perma.cc/Q2LB-95NV>.

²⁴ *The State of the Nation's Housing 2019*, *supra* note 22, at 4.

households spend more than 50 percent of their household income on rent.²⁵ In Maryland, residents working at minimum wage must work 91 hours each week to afford a one-bedroom rental home.²⁶ As a result, although many working families rely on public benefits to ease painful trade-offs between housing, food, and medical care, they live on the edge of homelessness.²⁷ By pushing families to forgo supports on which they rely, the Rule threatens to push them into homelessness, and further from self-sufficiency.

Second, the dramatic expansion of “public charge” to include Section 8 Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, and Public Housing programs compounds this effect. Millions of working low-income households currently receive federal rental assistance.²⁸ For low-income families with children, this assistance is particularly beneficial—one study found that vouchers reduce the share of families living in shelters or on the streets by three-fourths.²⁹ With DHS’s expansion of public charge’s scope, immigrants who are

²⁵ Los Angeles Homeless Servs. Auth., *2019 Greater Los Angeles Homeless Count Presentation* 8 (Aug. 5, 2019).

²⁶ Nat’l Low Income Hous. Coal., *Out of Reach 2019: Maryland* (2019), <https://perma.cc/7WX8-DQTV>.

²⁷ *The State of the Nation’s Housing 2019*, *supra* note 22, at 32-33.

²⁸ Will Fischer, *Chart Book: Rental Assistance Reduces Hardship, Promotes Children’s Long-Term Success*, Ctr. on Budget & Pol’y Priorities (July 5, 2016), <https://perma.cc/S2GA-G5HC>.

²⁹ *Id.*

eligible for and need housing subsidies will be forced to choose between securing housing or seeking legal status. Ultimately, many of the effects of homelessness will be borne by local governments.

Apart from the significant burden on local governments of housing newly homeless residents, unstable housing situations can lead to a wide range of health-related problems including increased hospital visits, loss of employment, and mental health problems.³⁰ Homelessness is also associated with extraordinary public health issues; some jurisdictions have seen outbreaks of diseases like Typhus and Hepatitis A associated with increases in homelessness.³¹ Local governments are charged with addressing all of these issues, and will be forced to do so using ever-more-stretched local resources.

B. The Rule Will Profoundly Diminish Public Health—And Local Governments Will Be Forced to Compensate.

With the Rule in effect, local governments across the country will pay a heavy price to avoid significant degradation in public health. The Rule will deter immigrants from accessing medical care to which they are entitled and that keeps them and their communities healthy. The effect to the health of the entire

³⁰ Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, Ctr. on Budget & Pol'y Priorities (Oct. 7, 2015), <https://perma.cc/8BVZ-JC3D>.

³¹ Anna Gorman, *Medieval Diseases Are Infecting California's Homeless*, Atlantic (Mar. 8, 2019), <https://perma.cc/BFT9-YVNW>.

community, and the costs associated with addressing these effects, will be high—and will come at the cost of other local priorities.

Local governments, which have primary responsibility for providing basic services for our most vulnerable residents, will bear the brunt of addressing the degradation in public health. When individuals avoid preventative care, they are generally less healthy,³² and rely more upon emergency care provided through Amici's safety-net hospitals³³ or emergency medical services, which drives up costs.³⁴ In the case of county public hospitals, which provide a disproportionate share of hospital care to uninsured patients,³⁵ the burden will increase as formerly enrolled Medicaid patients join the ranks of the uninsured.

Benefits are even more important for children. In Los Angeles County, nearly 250,000 Medi-Cal recipients—including 165,000 children—are likely to be

³² See, e.g., Paul Fleming & William Lopez, *Researchers: We're Already Seeing the Effects of Trump's Green Card Rule*, Detroit Free Press (Aug. 24, 2019), <https://perma.cc/UD7E-2CK4>.

³³ In California, for example, state law requires counties to serve as the healthcare provider of last resort for their residents. Cal. Welf. & Inst. Code § 17000.

³⁴ See, e.g., Am. C. of Emergency Physicians, *The Uninsured: Access to Medical Care Fact Sheet* (2016), <https://perma.cc/FKV6-44YW> (“Emergency care is the safety net of the nation’s healthcare system, caring for everyone, regardless of ability to pay. . . .”).

³⁵ Erica Murray, California Association of Public Hospitals and Health Systems, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 7, 2018), Docket No. USCIS-2010-0012-36194.

affected by the Rule.³⁶ The County’s Department of Health Services has already observed parents avoiding diagnostic and treatment services provided by the department’s Children’s Medical Services because of the Rule, resulting in a 10% drop in its Medi-Cal caseload.³⁷ For these children and millions of others throughout the country, the impacts of the Rule are dire. Children who cannot access preventative health care, proper nutrition, or stable housing are more likely to develop health conditions and face difficulties in school, curtailing lifetime earning potential along with basic quality of life.³⁸

Individuals who are afraid to access healthcare also open themselves and their communities up to increased numbers and severity of disease outbreaks, which must be addressed by local public health departments.³⁹ To offer just one example, when individuals forgo vaccination, “herd immunity” is threatened.⁴⁰ This is not a speculative harm; in the 1990s, the then-largest rubella outbreak in the

³⁶ Mary Wickham, County of Los Angeles, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 23 (Dec. 10, 2018), Docket No. USCIS-2010-0012-29259.

³⁷ Decl. of Barbara Ferrer at 3-5, ¶¶ 8-5, *California, et al. v. U.S. Dep’t of Homeland Sec., et al.*, No. 4:19-CV-04975-PJH (N.D. Cal. 2019), Dkt. No. 18-3.

³⁸ See Ctrs. for Disease Control & Prevention, *Health and Academic Achievement* 2-3 (May 2014), <https://perma.cc/3VXF-Y9LC>; Fischer, *supra* note 28.

³⁹ For example, California law obligates cities to “take measures necessary to preserve and protect the public health.” Cal. Health & Saf. Code § 101450; *see also id.* at §§ 101460, 101470.

⁴⁰ Branswell, *supra* note 17.

nation was associated with a substantial increase in public charge determinations based on Medicaid use. The disease spread as fear grew and immigrant communities withdrew from public health services for fear of immigration consequences.⁴¹

Community organizations have raised an even more alarming possibility in connection with HIV. Disruptions in HIV treatment can lead to drug-resistant strains of the disease. The Rule is likely to produce just these sorts of disruptions as immigrants living with HIV withdraw from medical support.⁴² These effects could come at exactly the time the Rule has rendered Amici least able to respond: as the Harris County public health system pointed out in its comment on the Rule, its implementation will cause severely overburdened public hospitals and overcrowding at private and public hospital emergency rooms.⁴³

When individuals lose access to health insurance and preventive care, localities' emergency medical and public health services must shoulder the increased burden. Thus, the Rule imposes direct and indirect costs on Amici as they seek to care for increasingly unhealthy populations.

⁴¹ Claudia Schlosberg & Dinah Wiley, *The Impact of INS Public Charge Determinations on Immigrant Access to Health Care*, Mont. Pro Bono (May 22, 1998), <https://perma.cc/WX9P-PNDB>.

⁴² Cartagena, *supra* note 18, at 12.

⁴³ Masi, *supra* note 10, at 2.

C. By Punishing Individuals Who Receive Food Assistance, the Rule Multiplies the Harm to Local Governments.

Local governments have a direct interest in their residents' continued use of food assistance to promote healthy communities. As with housing and medical care, when residents lose these supports, local governments are charged with filling the gaps.

For example, SNAP, which is expressly targeted by the Rule, is "the nation's most important anti-hunger program."⁴⁴ SNAP provides important nutritional assistance for participants, most of whom are families with children, households with seniors, or people with disabilities.⁴⁵ One in five of the nearly 20 million children who receive SNAP are living with a noncitizen adult.⁴⁶

"[A] mass exodus of mixed-status households from the SNAP program" could lead to a considerable increase in the child poverty rate.⁴⁷ SNAP is often used to fill gaps for working individuals with lower incomes, not as a replacement for work.⁴⁸ In the absence of monthly benefits to help families get by, immigrant

⁴⁴ Ctr. on Budget & Pol'y Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)* (June 25, 2019), <https://perma.cc/RY3N-GUJY>.

⁴⁵ *Id.*

⁴⁶ Laird, *supra* note 13, at 2 (citing Sara Lauffer, U.S. Dep't of Agric., *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2016* (2017)).

⁴⁷ *Id.* at 6.

⁴⁸ See Bernstein et al., *supra* note 6, at 18-19.

households will change—or have already changed—food-purchasing behaviors to less nutritious or fresh options, or be forced to make the difficult decision to go hungry or miss monthly payments like rent.

Local governments will feel the effects of reduced food benefit enrollment. Food-insecure women are more likely to experience birth complications than food-secure women; food-insecure children are more likely to suffer from poor physical and mental health.⁴⁹ Food insecurity can also result in lowered workplace productivity, and physical and mental health problems for adults and seniors.⁵⁰ Such impacts will lead to increased costs at safety-net hospitals, the need for programmatic increases, and a decline in the economic well-being of Amici's communities.

D. The Rule Will Undermine Family Cohesion and Amici's Foster Care Systems.

The Rule also cannot be reconciled with the interests of the abused and neglected children in the care of local governments. In caring for these children, there is broad agreement that families should remain together if at all possible,⁵¹

⁴⁹ New York City, Chicago, the U.S. Conference of Mayors, & Signatories, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 16 (Dec. 10, 2018), Docket No. USCIS-2010-0012-62861.

⁵⁰ *See id.*

⁵¹ U.S. Dep't of Health & Human Servs., Children's Bureau, *Determining the Best Interests of the Child* 2 (2016), <https://perma.cc/Y2NE-B5QC>; see also Tex. Fam. Code § 264.151; Cal. Welf. & Inst. Code § 16000.

including placing children with other family members when continued placement with parents is untenable. *See, e.g.*, Cal. Welf. & Inst. Code § 16000(a) (specifying that, when a child is removed from her parents' custody, "preferential consideration shall be given whenever possible to the placement of the child with [a] relative"); Tex. Fam. Code § 264.151(b)(12) (codifying legislative intent to "promot[e] the placement of children with relative or kinship caregivers" if reunification impossible). The Rule will cause immigrant family members to be reluctant to step forward and assume care for a child. Taking in a child is a significant resource commitment, and they are likely to feel that accepting benefits to do so will threaten their immigration status.⁵² In some cases, willingness to obtain public benefits for support of children, including those targeted by the Rule, is a key criterion in placement decisions. Failure to obtain these resources can threaten parental rights. *See, e.g.*, Tex. Fam. Code § 263.307 (parental ability to provide adequate health and nutrition are placement factors). The Rule forces parents to decline the services offered by the State and risk the termination of their parental rights. In other words, the Rule is likely to lead to family destabilization and separation and an increased burden on the foster-care system.

⁵² *See, e.g.*, Maria D. Badillo, Children's Rights Project at Public Counsel, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 10, 2018), Docket No. USCIS-2010-0012-55481.

CONCLUSION

Because the Rule will cause—and is beginning to cause—dramatic harm throughout Amici’s communities, this Court should affirm the District Court.

Respectfully submitted,

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The County of Harris, Texas
The City of Holyoke, Massachusetts
The City of Houston, Texas
The County of King, Washington
The City of Los Angeles, California
The County of Los Angeles, California
The City of Madison, Wisconsin
The County of Marin, California
The City of Minneapolis, Minnesota
The County of Monterey, California
The City of Oakland, California
The City of Sacramento, California
The County of San Mateo, California
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CERTIFICATE OF COMPLIANCE

I certify that this document complies with the type-volume limitation set forth in Federal Rule of Appellate Procedure 29(a) and Circuit Rule 29-1(c) because it contains 3,983 words, exclusive of the portions of the brief that are exempted by Federal Rule of Appellate Procedure 32(f). I certify that this document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6).

Dated: January 31, 2020

By: */s/ Danielle L. Goldstein*
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CERTIFICATE OF SERVICE

I, Danielle L. Goldstein, hereby certify that I electronically filed this Brief of Amici Curiae 26 Counties, Cities, and Municipalities in Support of Plaintiffs-Appellees and Affirmance with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system on January 31, 2020. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Executed January 31, 2020, at Los Angeles, California.

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