

No. 19A785

**In the
Supreme Court of the United States**

DEPARTMENT OF HOMELAND SECURITY, et al.,

Applicants,

v.

NEW YORK, et al.,

Respondents.

I, Maria Lucia Chavez, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18 and am competent to testify as to the matters herein and make this declaration based on my personal knowledge.

2. I am the Deputy Director of Northwest Immigrant Rights Project (NWIRP). NWIRP is one of the largest nonprofit organizations focused exclusively on providing immigration legal services in the Western United States. NWIRP provides direct legal services to immigrants with low income in Washington State, and engages in systemic advocacy and community education around policies and practices impacting immigrant rights. As an organization, we have over three decades of experience with family-based adjustment of status and consular process, and we have helped thousands apply for this important immigration benefit.

3. In my role as Deputy Director, I provide supervision and oversight of legal services across the organization, serve as an ambassador for NWIRP internally and externally, provide

strategic leadership for the organization, and I provide direct representation and other forms of legal assistance to NWIRP clients.

4. On February 24, 2020, the Department of Homeland Security (DHS) implemented its new public charge rule. As expected, this change created a sense of fear and urgency in both the impacted community members and legal practitioners, including NWIRP's legal advocates.

5. The implementation of the new public charge rule has caused an uptick in avoidance of benefits by immigrants and their family members, including U.S. citizens and lawful permanent residents as well as other immigrants who are otherwise not subject to a public charge analysis. Immigrants are aware that applying for benefits will be considered either a negative factor or have a negative impact in a public charge determination as the rule lists as a factor to be considered whether the applicant for adjustment of status "has applied for, been certified to receive, or received public benefits (as defined in the rule) on or after October 15, 2019" (now February 24, 2020).

6. Since the global health COVID-19 crisis began, immigrant communities have a heightened fear in accessing public benefits, even related to benefits not considered in the new public charge rule analysis, like accessing a COVID-19 hotline service, food banks, or emergency health-related services. NWIRP has observed an increase in calls across our four offices related to accessing benefits and the impact this may have on a client's case or their family member's case. Despite clarification and the new rule's explicit mention that only an applicant's receipt of benefits would be considered, U.S. citizens, lawful permanent residents, and other immigrants who would not be subject to a public charge analysis continue to be confused or hesitant to accessing much needed benefits. For example, a community member who lacks health insurance asked whether this would impact his ability to receive treatment for COVID-19.

7. Since our communities became subject to a “Stay Home, Stay Healthy” emergency order, NWIRP has seen a rise in calls related to unemployment and financial insecurity and how accessing certain benefits could impact a person’s case. See <https://www.governor.wa.gov/news-media/inslee-extends-stay-home-stay-healthy-through-may-4>. Our offices have received questions from asylum seekers, U visa applicants, and self-petitioners in need of food stamps for their children or food bank assistance, concerned that these benefits could subject them to a public charge determination. We have also received calls from people with employment authorization wondering whether applying for unemployment would affect their asylum case due to public charge. NWIRP’s social services coordinator has connected with three pregnant women who fear accessing care because of the public charge rule even though they are exempt to receive Medicaid in their situation. One woman was unwilling to enroll even after we explained her eligibility.

Access to testing and treatment in light of COVID-19

8. While local efforts have emerged to compile resources and provide frequently asked questions related to medical testing or treatment of COVID-19 and how this access does not have public charge implications on a person’s immigration case, immigrants continue to avoid seeking any assistance that in their minds could be considered in a public charge analysis. Instead, community members who may be in need of medical care are reluctant to seek care because their fear of a future case denial based on a public charge determination overcomes any current need.

9. On or around March 13, 2020, U.S. Citizenship and Immigration Services (USCIS) posted an alert (in English only). This alert explained that while the Public Charge rule “does not restrict access to testing, screening, or treatment of communicable diseases, including COVID-19,” USCIS was nonetheless required to “consider the receipt of certain cash and non-cash public benefits, including those that may be used to obtain testing or treatment for COVID-19 in a public

charge inadmissibility determination,” including most forms of federally funded Medicaid. *See* <https://www.uscis.gov/greencard/public-charge>. While USCIS encourages people to seek services in this situation, any receipt of this important service could be considered a negative factor in the applicant’s totality of circumstances test even if they could submit a statement explaining the impact. This does not in fact reduce fear in communities and confusion related to accessing medical treatment or testing for COVID-19. We recently received a call from a community member asking whether getting assistance for COVID-19 treatment would affect them later as a public charge.

Increase in food insecurity in light of COVID-19

10. During this COVID-19 crisis, NWIRP has limited our direct legal services as our four offices are closed to the public and are conducting most of our services remotely. This past month, however, NWIRP has seen an increase in acting as a resource to community members who have questions about available services and resources due to loss of employment, potential eviction, becoming homeless, and food insecurity. We have heard from a community advocate that on a region of Washington’s peninsula there are about 150 families (mix-status families) without work until July as their work is seasonal and they are unable to afford moving to areas where there may have access to more resources. On April 6, 2020, Washington’s Governor announced school closures for grades K-12 through the end of the school year. Many community members have had difficulty choosing to care for their children or working, making their family’s financial situation even more dire. We have heard from people who are being laid off from their jobs and are lawful permanent residents who are worried about applying for unemployment benefits. They are afraid that this would impact their future application for naturalization or their family member’s application for adjustment of status due to a potential finding of public charge. We have been asked by service providers what the impact would be on a youth who is under 21 years of age receiving

mental health services under Medicaid and how that might impact their family-based immigration case in the future, related to public charge.

11. Since the new DHS public charge rule went into effect, NWIRP has yet to file a family-based application for adjustment of status subject to the new rule. Clients are afraid and advocates have found their work has more than doubled. The current COVID-19 crisis has added an extra layer of fear and uncertainty in our community members' lives and has negatively impacted their pursuit for lawful immigration status.

DATED this 7th day of April, 2020 at Seattle, Washington.



Maria Lucia Chavez
Deputy Director
Northwest Immigrant Rights Project