

No. 19A785

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

DEPARTMENT OF HOMELAND SECURITY, et al.,

Applicants,

v.

NEW YORK, et al.,

Respondents.

I, Alejandra Aguilar, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Lead Health Educator in the HIV Navigation Services unit of the East Los Angeles Women's Center ("ELAWC"). In this role, I provide health education, support services, and links to HIV testing and treatment to clients throughout East Los Angeles. I also provide support to ELAWC's Rape Crisis Center by connecting people who have experienced domestic abuse, sexual assault, and human trafficking to support services and counseling. During my fifteen years of employment and consulting as a health educator at ELAWC, I have provided healthcare navigation and other services to hundreds of predominantly immigrant clients and have personally observed their efforts to secure essential healthcare. I submit this declaration in support of Respondents' application in the above-captioned matter.

2. The mission of the East Los Angeles Women's Center is to ensure that all women, girls and their families live in a place of safety, health, and personal well-being, free from violence and abuse, with equal access to necessary health services and social support, with

an emphasis on Latino communities. The vast majority of clients ELAWC serves are immigrant women — most of whom are monolingual Spanish speakers — and their families living below the federal poverty line. Most of our clients are also uninsured or underinsured. These clients represent extremely underserved segments of the population with needs that stem from their transition out of dangerous situations, including people who have experienced sexual assault, survivors of domestic abuse, and individuals who are homeless or at risk of homelessness. ELAWC plays a critical role in connecting clients who have immediate healthcare, housing, and nutritional needs with partners who provide these services or who can enroll them in benefits programs. Additionally, ELAWC provides two forms of shelter for survivors of sexual assault, domestic abuse, human trafficking, and/or other trauma: a hospital-based shelter and separate transitional housing for women and families who are moving out of dangerous situations.

3. Prior to government-mandated quarantine, I provided frequent in-person community presentations on several health-related topics, including linkage to health services; HIV navigation; HIV prevention; general wellness; and crisis support. I prepared for these presentations by consulting with healthcare providers and enrollment specialists to better inform clients of the agencies and organizations who can enroll clients in appropriate medical coverage or provide free or low-cost medical care. I also provided one-on-one navigation— typically serving between three and five clients a day — in person and by phone.

4. Since California's mandatory quarantine went into effect on March 13, 2020, I have moved to taking calls from clients and providing health navigation services over the phone, as well as connecting people with crisis counseling and connecting them to other resources.

The Rule has Led to Fear and Confusion

5. Since approximately two years ago, when reports about changes to public charge policies in immigration began reaching the communities I work in, I have continuously answered questions from clients who are afraid to use services for fear of impacting their eligibility for future adjustments to their immigration status. In the last two months — after the Supreme Court’s order staying injunctions blocking the DHS public charge rule’s implementation throughout the country — I have received more questions about public charge than I ever have previously.

6. To help resolve fear and confusion about public charge in our client communities, ELWAC has invited immigration attorneys and partner organizations to speak to our clients about changes to the immigration system. This information has been helpful to those who we are already assisting, but I am concerned that others in the community whom we have not yet reached remain misinformed and confused about how the public charge framework operates. Recent contact with new clients has confirmed this apprehension, as clients who come into initial contact with our organization misunderstand the public charge rule and how it impacts them.

7. Unless clients actively reach out to us or we are able to locate them through outreach services, they are extremely unlikely to receive accurate information about who public charge applies to and how. In many initial meeting with my clients, they have expressed a mistaken belief that receiving any state or local healthcare assistance, such as state health insurance through Medi-Cal or My Health LA, a low-cost healthcare plan for people in Los Angeles county without health insurance, would result in future immigration consequences and that they should therefore avoid them. Although I am able to correct these misunderstandings

when I meet with clients, I am sure that countless others who I do not reach will continue to make choices that impact their health and wellbeing based on misinformation.

8. In particular, these concerns have been particularly acute for clients who are at risk of contracting HIV. At present, I estimate that one out of every ten calls I receive for HIV prevention services are questions about immigration consequences for HIV testing and treatment because of the public charge rule.

Clients have Avoided or Withdrawn from Benefits Since the Rule Took Effect

9. In the past two months, several clients have told me that they will forgo or withdraw from medical and nutritional benefits due to fear over the public charge Rule. It is especially troubling that clients who are at risk of having contracted HIV have decided to avoid testing and free treatment because they fear that getting tested *or* the fact of having HIV will have immigration consequences.

10. Similarly, clients we serve with children — where many of those children are U.S. citizens — who are eligible for coverage and services are frightened that they will be unable to pursue immigration relief like adjustment to permanent residence if their children receive this support. Some clients have discontinued vital services for their children like medical coverage through Medi-Cal, Special Supplemental Nutrition Program for Women, Infants, and Children (“WIC”), and other programs out of fear of public charge consequences.

11. One of my sessions from late February 2020 with a client who works in food service with several other immigrants provides an example of the level of misinformation in the community and its broad impact. This client had previously withdrawn from Medi-Cal after hearing about public charge. At the time she came in to ELAWC, she was spending more of her pay on out-of-pocket medical costs for herself and for her citizen children. After withdrawing

from Medi-Cal, she told several coworkers that she had withdrawn and why, and many of those coworkers (who also had citizen children) also withdrew. These families were especially frightened of seeking care after the public charge rule went into effect and continued to avoid medical care through various illnesses — only visiting the doctor and paying out of pocket when they were desperate —as of early March 2020.

12. On March 20, 2020, I counseled a client’s daughter. My client’s daughter is a college student in the DACA program who is five months pregnant. My client requested that I speak to her daughter because she was avoiding prenatal care. The daughter had visited the doctor only once for a pregnancy test, when she was seen her based on presumptive eligibility for Medi-Cal. When my client’s daughter learned that she would need to visit a county office to be fully enrolled in Medi-Cal to receive future coverage, she avoided doing so because she was afraid that the public charge rule would impact her ability to adjust her immigration status in the future. At that time, she used the internet to research whether public charge would apply in her situation, but she was confused by the information she found. Because she was afraid of jeopardizing her future in the United States and could not afford to pay for care without health coverage, she stopped visiting the doctor for prenatal visits.

13. I am also aware of a woman who is avoiding medical care while awaiting adjudication of a U-visa application. She has an eight-year-old daughter who is a U.S. citizen. After learning about the public charge rule, she withdrew her family from Medi-Cal out of fear that receipt of state medical benefits would make her ineligible for the visa. She has since stopped taking her daughter to physicals or dental examinations because she cannot afford them and will only take her to the doctor when she is very sick. For her family’s illnesses, she uses over-the-counter medications. I have explained to her that the public charge rule would not apply

to her family if her daughter continued to receive benefits that she is eligible for, but she will not re-enroll due to serious fears about potential separation from her daughter.

14. The client stories above are representative of many others that my colleagues have described to me since the public charge rule took effect. Before our offices closed due to COVID-19, clients were so afraid of immigration consequences under public charge that they were reluctant to share their name and demographic information on sign-in sheets that we use for documentation purposes.

15. The COVID-19 pandemic has dramatically changed our operations and has provoked serious fear in our client communities. As part of my health education with clients, I am now providing basic information about COVID-19, sharing available resources related to the virus, offering hygiene education, and offering sanitizers when we have access to those items. ELAWC's hospital-based and transitional shelters are still open and operational as emergency resources and each is at full capacity. The health vulnerabilities of people with HIV and at risk of contracting HIV and the dangers of COVID-19 infection are of special concern due to the acute danger infection poses to people with compromised immune systems.

16. Since the COVID-19 global health emergency began, I have experienced an increase in the volume of calls to our HIV information line. The majority of this increase has been sparked by COVID-19. Clients are anxious about the pandemic's impact on their health. Fear is especially acute among HIV-positive patients. During the week of March 22 to March 28, 2020, alone, I received more calls than I typically receive in a whole month.

17. On or around March 13, 2020, the 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>. My clients have not indicated to me that they have seen or heard about this notice. ELAWC health navigators are still receiving questions from clients who are confused about how and when the public charge rule applies to them.

COVID-19 Has Amplified Clients’ Fear of Using Benefits

18. The effects of COVID-19 on my clients are even greater because of the economic shocks the pandemic has created in the community. Financial uncertainty among my clients who have lost jobs and income because of the pandemic is particularly troubling because many can no longer afford to pay out of pocket for medical costs when they need healthcare if they are not insured. Public charge makes this challenge more complicated because clients are also unwilling to seek out health coverage that they may be eligible for. This combination of factors means that many of our clients will avoid medical treatment altogether, even though the COVID-19 pandemic makes that treatment more important than ever.

19. I believe our clients and other community members are more likely to avoid healthcare because they do not have the money to pay for it and are fearful of the immigration consequences of receiving government healthcare benefits because of the public charge rule. Studies show that survivors of abuse and survivors of sexual assault are more likely to be impacted by chronic conditions like diabetes or hypertension.¹ I believe that these conditions may mean that COVID-19 is more dangerous to our clients.

¹ <https://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-1286>

DATED this ninth day of April, 2020 at Los Angeles, California

Alejandra
Alejandra Aguilar