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17 *Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
18  
NORTHERN DISTRICT OF CALIFORNIA  
19

20 LA CLINICA DE LA RAZA; ET AL.,

21 Plaintiffs,  
22 v.

23 DONALD J. TRUMP, ET AL.

24 Defendants.  
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27  
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Case No. 4:19-cv-4980-PJH

**DECLARATION OF DANILO TRISI, PH.D. IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

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**DECLARATION OF DANILO TRISI, Ph.D.**

I, Danilo Trisi, hereby declare:

1. I am a Senior Research Analyst in the Family Income Support Division at the Center on Budget and Policy Priorities (“the Center”), a nonpartisan research and policy institute. The Center’s research is frequently cited by policymakers, and the media and federal agencies have frequently sought both technical assistance and advice from Center experts. Many Center experts have previously testified in front of Congress and have served as expert witnesses in federal court. If called as a witness, I could and would competently testify to the following.

**A. Qualifications**

2. At the Center, I manage various research projects centered on how government policy affects low- and moderate-income families. For more than 12 years, I have focused my research on poverty and income trends, labor market analyses, income inequality, public benefits programs, and the social safety net. I have also done a significant amount of research and writing on the consequences of recent immigration policies. In addition to my B.A. degree from Pomona College, I have two advanced degrees: a Ph.D. from the University of Maryland’s School of Public Policy (with a specialization in social policy), and a Master’s from the University of California, Berkeley. During my time at Berkeley, I was a researcher at the Center for Labor Research and Education.

3. I have been the author or co-author of over 50 articles and studies for the Center, including: Danilo Trisi et al., “A Guide to Statistics on Historical Trends in Income Inequality,” Center on Budget and Policy Priorities, December 11, 2018, <https://www.cbpp.org/research/poverty-and-inequality/a-guide-to-statistics-on-historical-trends-in-income-inequality>; Danilo Trisi et al., “Child Poverty Falls to Record Low, Comprehensive Measure Shows Stronger Government Policies Account for Long-Term Improvement,” Center on Budget and Policy Priorities, October 5, 2017, <https://www.cbpp.org/research/poverty-and-inequality/child-poverty-falls-to-record-low-comprehensive-measure-shows>; Danilo Trisi et al., “It Pays to Work: Work Incentives and the Safety Net,” Center on Budget and Policy Priorities, March 3, 2016, <https://www.cbpp.org/research/federal-tax/it-pays-to-work-work-incentives-and-the-safety-net>;

1 and Danilo Trisi, “SNAP and Unemployment Insurance Kept Millions Out of Poverty Last Year,  
2 Census Supplemental Poverty Measure Shows,” Center on Budget and Policy Priorities,  
3 November 6, 2013, [https://www.cbpp.org/blog/snap-and-unemployment-insurance-kept-millions-  
4 out-of-poverty-last-year-census-supplemental](https://www.cbpp.org/blog/snap-and-unemployment-insurance-kept-millions-out-of-poverty-last-year-census-supplemental).

5 4. Many of my articles and studies have been cited in the national media, including  
6 the Washington Post, New York Times, National Public Radio, U.S. News & World Report, The  
7 Atlantic, Slate Magazine, The Nation, and various other outlets.

8 5. My research requires me to remain current on the latest statistical methodologies. I  
9 am proficient in Stata (software for statistics and data science), econometrics, economic theory,  
10 social policy, and many other areas.

11 6. I have given several national presentations. In 2016, I was a plenary speaker for the  
12 National Association for Welfare Research and Statistics (NAWRS) annual conference. At various  
13 times in my career, I have been a member of the Association for Public Policy Analysis &  
14 Management (APPAM) and attended its annual research conference. In 2010, 2012, 2014, and  
15 2016, I was a speaker at APPAM’s annual research conference, where I presented my research,  
16 participated in an expert panel, and/or organized another panel of experts. For three years, I  
17 presented my research on TANF, the safety net, and deep poverty at the Research and Evaluation  
18 Conference on Self-Sufficiency (RECS).

19 7. Attached to this declaration and marked as Exhibit A is a true and correct copy of  
20 my curriculum vitae that includes a list of my recent published work.

21 8. Throughout my entire 15-year career, my policy and advocacy expertise has  
22 focused on analyzing the characteristics of the U.S. low-income population and the effect of  
23 government programs on reducing poverty and increasing income. My research has included  
24 analyzing how government policies affect immigrants. My analyses draw on national survey data,  
25 administrative data, and micro-simulation of tax and transfer programs.

26 9. In preparing to give this declaration, I have reviewed the proposed and final rule at  
27 issue in this case, and have read various papers from other academics and researchers on the  
28

1 effects of the rule. I have also relied on my expertise of how to use survey data to identify who  
2 participates in government assistance programs.

3 **B. Observations and Opinions**

4 10. In my opinion, the new public charge rule from the Department of Homeland  
5 Security (DHS) is likely to result in large numbers of individuals being denied lawful permanent  
6 residence status, or the ability to extend their stay, to change their status, or to enter the United  
7 States, which ignores extensive research on the benefits of immigration to the country and  
8 immigrants' demonstrated upward mobility.

9 11. Under longstanding immigration law, certain individuals can be denied entry to the  
10 United States or permission to remain here if they are determined likely to become a public  
11 charge. For decades, public charge has been defined as being primarily dependent on the  
12 government for public cash assistance (such as Temporary Assistance for Needy Families (TANF)  
13 and Supplemental Security Income (SSI)) or long-term institutional care through Medicaid. Under  
14 the new rule from DHS, individuals who are determined "more likely than not" to receive even  
15 modest assistance from a far broader set of benefits — including benefits that help many workers  
16 like SNAP (formerly known as food stamps) and Medicaid — at any point over their lifetimes will  
17 be considered a public charge. Immigration officials will look at many factors to determine the  
18 likelihood of benefit receipt, including whether the immigrant's current family income is above  
19 125 percent of the federal poverty level.

20 12. The new rule will so radically change the public charge definition that *about half* of  
21 all U.S.-born citizens would likely be deemed a public charge — and by extension and  
22 implication, considered a drag on the United States — if this definition were applied to them.  
23 While the new rule does not apply to U.S. citizens, it is instructive to consider the share of U.S.-  
24 born citizens whom the rule would characterize as a public charge when considering the  
25 reasonableness of the standard.

- 26 • In just a single year, 1 in 4 U.S.-born citizens receive a benefit included in the final  
27 rule's public charge definition.

28

- 1 • If one considers benefit receipt of the U.S.-born citizens over the 1997-2017 period,  
2 some 41 to 48 percent received one of the benefits included in the final rule’s  
3 public charge definition.
- 4 • If data covered U.S.-born citizens over the course of their full lifetimes, receipt of  
5 benefits included in the new rule would *be about half of the population*.
- 6 • A significant share of individuals working in the United States — 15 percent —  
7 receive one of the benefits included in the new rule in just a single year. These are  
8 workers upon whom our economy relies.

9 13. The longstanding and current definition of public charge is, by contrast, far  
10 narrower. In a single year, just 5 percent of U.S.-born citizens and 1 percent of individuals  
11 working in the United States meet the current benefit-related criteria in the public charge  
12 determination.

13 14. The public charge criteria in the new rule are not only broad, but will also  
14 discriminate against individuals from poorer countries, regardless of their talents, because the  
15 incomes of the vast majority of people from many countries fall below the new 125 percent-of-  
16 poverty threshold included as a consideration in the public charge determination under the final  
17 rule. This criterion will have racially disparate impacts, as people from countries with low incomes  
18 are disproportionately people of color. This threshold will be particularly problematic for  
19 immigrants from poor countries seeking entry to the United States, even if they have some family  
20 already here, because their own income is likely to be very low compared to U.S. poverty  
21 standards.

22 15. The new rule significantly expands the definition of public charge in two major  
23 ways. First, it broadens the list of public benefit programs considered in a public charge  
24 determination to include health coverage through Medicaid (with limited exceptions), food  
25 assistance through SNAP (food stamps), and housing assistance (Section 8 Housing Assistance  
26 under the Housing Choice Voucher Program, Section 8 Rental Assistance, and other subsidized  
27 housing programs). Second, instead of looking at whether more than half of a person’s income  
28 comes (or would likely come in the future) from cash assistance tied to need, as they do now,  
immigration authorities will determine, using several enumerated factors, whether an individual is  
“more likely than not at any time in the future to receive one or more public benefits” for a certain

1 time period (to be codified in 8 C.F.R. § 212.22(a))—even if the benefits reflect only a small share  
2 of an immigrant’s total income.<sup>1</sup>

3 16. The final rule’s broad definition of dependence on government assistance conflicts  
4 with the definition that has historically been used by researchers, including those in government.  
5 For example, in its annual reports to Congress on welfare indicators and risk factors, the U.S.  
6 Department of Health and Human Services (HHS) adopts a definition of dependence that is very  
7 different from the one in the rule. This is how the latest report published in 2018 explained its  
8 definition of dependence:

9 The Welfare Indicators Act of 1994 requires the Department of Health and Human  
10 Services to prepare annual reports to Congress on indicators and predictors of  
11 “welfare dependence.” The definition of “dependence” used in this report has been  
12 defined by a bipartisan Advisory Board on Welfare Indicators as required by  
13 statute. The Board proposed that: a family is defined as “dependent on welfare” if  
14 more than 50 percent of its total income in a one-year period comes from the  
15 Temporary Assistance for Needy Families (TANF) program, the Supplemental  
16 Nutrition Assistance Program (SNAP) and/or Supplemental Security Income  
17 (SSI).<sup>2</sup>

15 Consistent with my own findings, that HHS report shows how drastic a change it is to move away  
16 from a government dependence definition that is based on having more than half of a person’s  
17

18 \_\_\_\_\_  
19 <sup>1</sup> The definition of public charge in the rule does not include benefit program receipt that falls  
20 below a durational threshold of 12 months in aggregate in a 36-month period (such that, for  
21 instance, receipt of two benefits in one month counts as two months) (to be codified in 8 C.F.R. §  
22 212.22(a)). While this should mean that an immigration official would disregard projected  
23 program participation if the official believes the benefit duration would fall below the duration  
24 threshold established in the rule, as a practical matter it will be difficult for officials to apply when  
25 they are trying to predict whether an individual is likely to become a public charge in the future.  
26 An immigration officer would need to determine which benefit programs an individual immigrant  
might receive in the future, which would require in-depth knowledge about program eligibility  
rules and predictions about the income and characteristics of an immigrant’s future household  
members. That is so difficult that as a practical matter, immigration officials will likely default to  
only determining whether there is a likelihood of receiving any period of benefits. Therefore, any  
projected future receipt will likely result in a person being deemed “likely to become a public  
charge.”

27 <sup>2</sup> U.S. Department of Health and Human Services, “Welfare Indicators and Risk Factors,  
28 Seventeenth Report to Congress,” May 4, 2018, available at:  
<https://aspe.hhs.gov/system/files/pdf/259196/WELFAREINDICATORS17THREPORT.pdf>.

1 income be government assistance. HHS finds that 4.6 percent of people in 2015 met the definition  
2 of dependence used in the report, meaning that they received more than half of their income from  
3 TANF, SNAP, or SSI combined. However, the same HHS report finds that 22.5 percent of all  
4 persons in the U.S. lived in a household that received some level of TANF, SNAP, or SSI  
5 assistance at some point during 2015.

6  
7 ***About half of U.S.-born citizens would be considered a public charge if the new rule was***  
8 ***applied to them.***

9 17. The breadth of the new rule's expansive definition of public charge becomes clear  
10 when one considers the share of U.S.-born citizens who would be considered a public charge if the  
11 final rule's definition were applied to them. To understand the breadth of this definition, we would  
12 ideally look at U.S.-born citizens over their lifetimes and measure the share who receive one of the  
13 rule's named benefits. Unfortunately, data limitations preclude that. But we can look at the share  
14 of U.S.-born citizens who have received these benefits both in a single year using Census data and  
15 over a 19-year period using the Panel Study of Income Dynamics, a longitudinal data set.

16 18. To calculate the percent of U.S.-born citizens who have participated in a single year  
17 in programs now included in the Administration's rule, I have used the Current Population Survey,  
18 which is sponsored jointly by the U.S. Census Bureau and the U.S. Bureau of Labor Statistics. As  
19 described by the U.S. Census Bureau,

20 The Current Population Survey (CPS) is one of the oldest, largest, and most well-  
21 recognized surveys in the United States. It is immensely important, providing  
22 information on many of the things that define us as individuals and as a society –  
23 our work, our earnings, and our education. In addition to being the primary source  
24 of monthly labor force statistics, the CPS is used to collect data for a variety of  
25 other studies that keep the nation informed of the economic and social well-being  
26 of its people. This is done by adding a set of supplemental questions to the  
27 monthly basic CPS questions. Supplemental inquiries vary month to month and  
28 cover a wide variety of topics such as child support, volunteerism, health insurance  
coverage and school enrollment.<sup>3</sup>

<sup>3</sup> See <https://www.census.gov/programs-surveys/cps/about.html>.



1           19. My calculations include receipt of SNAP, TANF, SSI, housing assistance,<sup>4</sup> state  
2 and local General Assistance programs at any age, and receipt of Medicaid for those 21 years or  
3 older. I do not count Medicaid participation for those under 21 years old since the final rule does  
4 not count such receipt in its definition of a public benefit.<sup>5</sup> I have corrected for underreporting of  
5 SNAP, TANF, and SSI receipt in the Census survey using baseline data from the Transfer Income  
6 Model, version 3 (TRIM3). The TRIM3 figures are for 2016, the latest year for which these  
7 corrections are available.

8           20. TRIM3 is a comprehensive microsimulation model that simulates the major  
9 governmental tax, transfer, and health programs that affect the U.S. population, and can produce  
10 results at the individual, family, state, and national levels. TRIM3 is developed and maintained at  
11 the Urban Institute under primary funding from the Department of Health and Human Services,  
12 Office of the Assistant Secretary for Planning and Evaluation (HHS/ASPE). TRIM3 data has been  
13 used by various government agencies and academics. The U.S. Department of Health and Human  
14 Services, the Government Accountability Office, the Congressional Budget Office, the U.S.  
15 Department of Labor, the Economic Research Service, and the Congressional Research Service  
16 have used TRIM for special studies.<sup>6</sup> TRIM3 baseline data are built on the same CPS data file I  
17

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18 <sup>4</sup> In this declaration, I define housing assistance recipients as those individuals who report in  
19 surveys to be residing in public housing or receiving government housing subsidies. Administrative data from the Department of Housing and Urban Development shows that 90  
20 percent of households receiving federal rental assistance participate in one of the three major  
21 housing programs listed in the public charge rule (Housing Choice Vouchers, Section 8 Project-  
22 based Rental Assistance, and Public Housing). For more details, see Center on Budget and Policy  
Priorities, “Policy Basics: Federal Rental Assistance,” updated November 15, 2017,  
<https://www.cbpp.org/research/housing/policy-basics-federal-rental-assistance>.

23 <sup>5</sup> The public benefits definition in the rule also excludes receipt of Medicaid by pregnant women  
24 and during a 60-day postpartum period. My calculations do not exclude such receipt because the  
25 CPS does not identify pregnant women. However, other CPS data suggest that doing so would  
26 make only a very small difference to the estimates. If I were to treat the number of mothers with  
27 infants under 12 months of age as a proxy for the number of pregnant and postpartum women, and  
not count their Medicaid receipt as a way to estimate the effect of the pregnant women exception,  
my estimate of the percent of U.S.-born citizens who receive one of the benefits included in the  
rule would decline from 23.8 percent to 23.7 percent.

28 <sup>6</sup> Sheila Zedlewski and Linda Giannarelli, “TRIM: A Tool for Social Policy Analysis,” May 2015,  
Urban Institute. <https://aspe.hhs.gov/system/files/pdf/205341/TRIM.pdf>.



1 describe above and are designed to be merged with it as I do. TRIM3 differs from the Census CPS  
2 file in that missing data (questions not answered by CPS respondents) are filled in systematically  
3 in a manner that leads to total numbers of program participants that more precisely match actual  
4 program totals taken from administrative records, and that closely reproduces aggregate  
5 characteristics of program participants such as income distribution and family structure.

6 21. My estimates conservatively understate the share of U.S.-born citizens who  
7 participate in a single year in programs included in the new definition of public charge because I  
8 do not correct for the underreporting of Medicaid. While there are a number of causes for the  
9 underreporting of the receipt of Medicaid benefits, such as memory gaps, embarrassment, or  
10 confusion about the program (e.g., Medicaid versus Medi-Cal versus Obamacare), there are no  
11 publicly available corrections for Medicaid underreporting that I could have incorporated into my  
12 analysis. Correcting for underreporting of Medicaid, if available, would necessarily increase the  
13 estimated share of U.S.-born citizens who participate in these programs. HHS reported that 74  
14 million individuals participated in Medicaid or the Children’s Health Insurance Program (CHIP)  
15 in an average month in 2016.<sup>7</sup> However, the CPS data I’m using for this analysis only finds 62  
16 million people participated in Medicaid or CHIP in 2016.

17 22. Looking at just one year of program participation shows that 24 percent — nearly 1  
18 in 4 — of U.S.-born citizens receive one of the main benefits included in the new rule’s definition.  
19 In contrast, about 5 percent of U.S.-born citizens meet the *current* benefit-related criteria in the  
20 public charge determination.<sup>8</sup>

21 23. My opinions are also based on the Panel Study of Income Dynamics (PSID).  
22 Beginning in 1968, the University of Michigan’s Institute of Social Research has conducted the  
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24 <sup>7</sup> Centers for Medicare and Medicaid Services, “Medicaid and CHIP Monthly Enrollment  
25 Reports,” <https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/monthly-reports/index.html>.

26 <sup>8</sup> The current definition is modeled as: Personally receiving more in TANF, SSI, and General  
27 Assistance than in earnings, or a member of a family that receives more in TANF, SSI, and  
28 General Assistance than earnings. Due to data limitations we did not include participation in  
institutional care programs under Medicaid.

1 PSID and has followed about 5,000 families (and the families that branched off from the original  
2 survey respondents) annually. I have focused on those individuals in the PSID who are U.S.-born  
3 citizens.

4 24. The PSID shows that 21 percent of the U.S.-born population interviewed in 2017  
5 recently participated in SNAP, TANF, SSI, or housing assistance (such as section 8 and public  
6 housing) at any age or participated in Medicaid at the age of 21 years or later.<sup>9</sup> This estimate is  
7 lower than the above-mentioned estimate of 24 percent for a single-year figure because the PSID  
8 data are not corrected for survey respondents' well-known tendency to underreport receipt of  
9 government benefits.<sup>10</sup>

10 25. I have also used the PSID to calculate the percent of U.S.-born citizens who have  
11 participated in SNAP, TANF, SSI, or housing assistance at any age or participated in Medicaid at  
12 the age of 21 years or later for a much longer period of time (1997-2017). In this regard I have  
13 updated an analysis done by Diana Elliott from the Urban Institute using a PSID dataset created by  
14 Sara Kimberlin from the California Budget & Policy Center and Noura Insolera from the  
15 University of Michigan's Institute of Social Research, which runs the PSID. The survey data were  
16 collected between 1999 and 2017, but the program participation questions generally ask about  
17 participation in the current and previous two calendar years. I also have not included General  
18 Assistance in my PSID analysis due to concerns about the quality of the data for that variable, in  
19 particular, survey respondents not understanding what constitutes General Assistance. The  
20 inclusion of General Assistance would increase my estimates of the share of U.S.-born citizens  
21 who receive benefits included in the rule.

22  
23 <sup>9</sup> Throughout this PSID analysis, "U.S. born" refers to individuals in the PSID's main sample, and  
24 excludes a later, supplemental sample of immigrants added to the PSID in 1997-1999 and in 2017.  
25 The main sample actually includes a small number of immigrants, including some who were  
26 present in the United States since 1968 when the PSID began or those who joined existing PSID  
households in later years. PSID respondents in 2017 were asked about current receipt of Medicaid  
and housing assistance, receipt of TANF and SSI in the past year, and receipt of SNAP last month,  
last year, and two years ago.

27 <sup>10</sup> See, e.g., Bruce D. Meyer, Wallace K.C. Mok, and James X. Sullivan, "The Under-Reporting of  
28 Transfers in Household Surveys: Its Nature and Consequences," National Bureau of Economic  
Research working paper 15181, July 2009, <http://www.nber.org/papers/w15181>.

1           26.     Based upon my analysis, approximately 41 to 48 percent of U.S.-born individuals  
2 present in the PSID survey in 2017 participated in either SNAP, TANF, SSI, or housing assistance  
3 at any age or participated in Medicaid after being 21 years of age or older over the 1997-2017  
4 period. I estimate the bottom of the range, 41 percent, by analyzing the PSID data and not making  
5 any adjustments for the underreporting of benefits in the PSID. I estimate the top of the range, 48  
6 percent, by adjusting the PSID data to account for the underreporting of benefits. The PSID survey  
7 underreports the receipt of benefits and, as a consequence, the CPS/TRIM-based estimate of the  
8 share of individuals who participated in one of the benefit programs in 2016 is about 1.15 times as  
9 large as the PSID-based estimate.<sup>11</sup> I use this adjustment factor to estimate that as many as  
10 approximately 48 percent of U.S.-born citizens participated in one of the programs listed in the  
11 rule for at least one year over the 1997-2017 period.<sup>12</sup>

12           27.     Underreporting by the respondents is just one reason that the 41 to 48 percent  
13 estimate described above is lower than the actual share of U.S.-born citizens who receive benefits  
14 in at least one year over this period. For the 1997-2017 period, the PSID only provides data on  
15 benefit receipt for most programs every other year. The PSID dataset thus lacks any measure of  
16 participation in alternate years for some programs such as Medicaid.

17           28.     Under the new rule, immigration authorities are tasked with predicting whether  
18 someone will receive one of the benefits included in the public charge definition over the course of  
19 their lifetimes. While using PSID data for 1997-2017 is an important improvement over using a  
20 single year of data, it only captures a portion of most respondents' lifetimes and significantly  
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23 <sup>11</sup> I arrive at an adjustment factor of 1.15 by dividing the CPS/TRIM share of U.S.-born citizens  
24 participating in 2016 (23.8 percent before rounding) by the comparable point-in-time figure from  
25 the PSID (20.6 percent). In calculating the latter figure, I include people who reported receiving  
26 SNAP during the last month, last year, or two years ago. If I only count those in the PSID who  
27 report receiving SNAP last year (as our TRIM figure does), the PSID point-in-time participation  
28 rate for the five programs would be 17.5 percent, the undercount adjustment factor would be 1.36,  
and our adjusted estimate of the share of U.S.-born citizens ever participating over the 1997-2017  
period would be even higher at 56 percent.

<sup>12</sup> I estimate this upper bound by applying the annual underreporting factor (1.15) to the estimate  
of benefit receipt over the full period (41.2 percent).

1 underestimates the share of U.S.-born citizens who receive a benefit at some point during their  
2 lives.

3 29. Additional PSID analyses, for instance, reveals that benefit receipt is higher during  
4 childhood than adulthood. Hence, capturing childhood years increases the share receiving benefits  
5 at some point. According to the PSID data, 51 percent of children born during 1999-2017 in non-  
6 immigrant PSID households received SNAP, TANF, SSI, or housing assistance during that time  
7 period.

8 30. If I were able to capture more years and a higher share of people's childhoods with  
9 data that are corrected for underreporting, I estimate that *about half* of the U.S.-born population  
10 participates in SNAP, TANF, SSI, or housing assistance at some point in their lives or Medicaid at  
11 21 years old or later.

12 31. It should be noted, that in the PSID and CPS/TRIM analyses presented here, I have  
13 not modeled the impact of applying the new rule's 12-month-in-36-month threshold to U.S.-born  
14 citizens because data limitations preclude me from doing so. However, as a practical matter, when  
15 immigration officials are determining whether a non-citizen is more likely than not to receive  
16 benefits in the future, they are very unlikely to be able to predict length of future benefit receipt  
17 with any precision.

18 ***Many workers participate in programs included in new definition.***

19 32. Another way to examine the breadth of the new rule's definition of public charge is  
20 to apply it to all individuals working in the United States, regardless of citizenship status. If all  
21 U.S. workers were subjected to a public charge determination, a significant share would be  
22 considered a public charge under the new rule. Looking at just one year of program participation  
23 shows that 15 percent of U.S. workers participate in SNAP, TANF, SSI, General Assistance, or  
24 housing assistance at any age or participate in Medicaid at the age of 21 years or later. In  
25 comparison, just 1 percent of U.S. workers meet the *current* benefit-related criteria in the public  
26 charge determination.

27 33. The reality of the current U.S. labor market is that many workers combine earnings  
28 with government assistance to make ends meet. Table 1 shows that a significant share of workers

1 in all major industry groups would be defined as a public charge if the definition were applied to  
2 them, despite the important role that these workers play in these industries and in the economy.

3 **Table I – Many U.S.  
4 Workers Use Benefits  
5 Covered by New Public  
6 Charge Definition**

	Percent that use benefits under current definition	Percent that use benefits under new definition
All workers	1%	15%
Leisure and hospitality	1%	25%
Other services (repair and maintenance, private household workers, etc.)	1%	20%
Agriculture, forestry, fishing and hunting	4%	19%
Wholesale and retail trade	1%	18%
Construction	1%	17%
Transportation and utilities	1%	15%
Educational and health services	1%	14%
Professional and business	1%	14%
Manufacturing	0%	13%
Information (publishing, broadcasting, telecommunications, etc.)	0%	10%
Financial activities	0%	9%
Public administration	0%	8%
Mining	0%	7%

16  
17 *Immigrants who receive assistance have high employment rates.*

18 34. Most immigrants who receive benefits like SNAP or Medicaid are employed or are  
19 married to someone who works — a sign that they are working in low-paid jobs rather than  
20 “dependent” in a traditional sense. Our analysis of Census data shows that 77 percent of working-  
21 age immigrants (18 to 64) who received one or more of six benefits during 2017 also worked  
22 during the year or were married to a worker. For more than 60 percent of working-age immigrants  
23 who received benefits, the work was year-round, that is, 50 weeks of the year or more.<sup>13</sup>

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26 <sup>13</sup> CBPP analysis of the March 2018 Current Population Survey. This analysis considered six  
27 forms of assistance covered by the public charge rule and available in the annual Census data: the  
28 individual’s Medicaid or Supplemental Security Income (SSI) and the family’s SNAP, housing,  
Temporary Assistance for Needy Families (TANF), and General Assistance. For more details, see:  
Arloc Sherman, Danilo Trisi, Chad Stone, Shelby Gonzales, and Sharon Parrott, “Immigrants  
Contribute Greatly to U.S. Economy, Despite Administration’s ‘Public Charge’ Rule Rationale,”

1           35.       Moreover, longitudinal data show that immigrants who receive benefits like SNAP  
 2 or Medicaid typically have even higher rates of employment over time. To assess long-term  
 3 patterns of assistance and employment, CBPP analyzed a sample of longitudinal survey data  
 4 collected in 1999 through 2015 from the PSID.<sup>14</sup> This analysis focused on individuals in the  
 5 survey's immigrant sample (that is, individuals in immigrant families added to the PSID in 1997  
 6 and 1999). The analysis looked at young adults aged 18 to 44 in 1999, who received any of five  
 7 programs that are both covered by the public charge rule and recorded in the PSID: Medicaid,  
 8 SNAP, SSI, TANF, or housing assistance. The analysis finds that the large majority of those who  
 9 ever used benefits were also employed a majority of the time, and even more were either  
 10 employed or had an employed spouse:<sup>15</sup>

- 11           •       At least 93 percent were either employed in the majority of the observed years (five  
 12 or more of the nine years observed in our PSID sample) or were married to  
 someone who was.
- 13           •       77 percent of such immigrant program participants were themselves employed in a  
 14 majority of the observed years.
- 15           •       At least 87 percent were either employed themselves at the time of the final  
 16 interview in 2015 or were married to someone who was.

16           36.       The first finding bears repeating. Looking at young adults in immigrant families in  
 17 1999, at least 93 percent of those who received benefits were also employed most of the time or  
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19 Center on Budget and Policy Priorities, August 15, 2019, <https://www.cbpp.org/research/poverty-and-inequality/immigrants-contribute-greatly-to-us-economy-despite-administrations>.

20 <sup>14</sup> The sample used is an extract of the PSID created by Sara Kimberlin of the California Budget  
 21 and Policy Center and Noura Insolera from the PSID staff of the University of Michigan Institute  
 22 of Social Research. It contains 77,223 individuals interviewed in odd-numbered years from 1999  
 23 through 2015. The analysis shown here contains 286 unweighted sample adults from the PSID  
 24 immigrant supplement, a sample of 511 post-1968 immigrant families added to the PSID in 1997-  
 25 1999, weighted with the survey's person-level panel weights. The sample extract includes data  
 26 regarding Medicaid participation at the time of the interview; SNAP participation in the two  
 calendar years preceding each interview; and participation in TANF, SSI, and housing assistance  
 in the prior calendar year. Medicaid, TANF and SSI participation are measured at the individual  
 level, and SNAP and housing assistance at the family level. One assistance program covered by  
 the proposed rule, state General Assistance, is not available in the extract.

27 <sup>15</sup> Figures that include spouses' employment are lower bounds because, due to data limitations,  
 28 they include spouses' employment only if one member of the married couple is the household  
 head. The figures exclude spouses of a couple that lives, for example, in their parents' home or in  
 the home of a non-relative.

1 married to someone who was. This finding, that over a period of several years most immigrants  
2 who receive the listed forms of assistance are usually working or are married to a worker, reflects  
3 both the frequently temporary nature of program participation and the common overlap between  
4 assistance and work within any given year.

5 *The new rule's income test is likely to keep many out of the United States.*

6 37. The new rule creates a variety of new criteria and standards for immigration  
7 officials to use when evaluating whether an individual is likely to become a public charge.  
8 Particularly concerning is a new income criterion that would be considered as a negative factor in  
9 the public charge determination. Under this “income test,” having family income below 125  
10 percent of the poverty line — about \$31,375 for a family of four, which is more than twice what  
11 full-time work at the federal minimum wage pays in the United States — would count against an  
12 individual in the public charge determination. The federal minimum wage is currently \$7.25 per  
13 hour; full-time minimum wage workers earn \$15,080 in a year if they work 40 hours per week for  
14 52 weeks.

15 38. Many low-wage U.S. workers have earnings below this level and could be deemed  
16 “likely to become a public charge” under the new rule, even if they receive no public benefits.  
17 This test is likely to prevent individuals with low or modest incomes from being granted status  
18 adjustment or lawful entry/re-entry to the United States.

19 39. That standard is also likely to be out of reach for many people seeking to enter  
20 from a country where incomes in general are much lower than in the United States. The 125  
21 percent test would disproportionately affect immigrants from poor countries (especially those who  
22 are not in families already living and working in the United States) and have a racially disparate  
23 impact on who is allowed into the United States. The World Bank provides an online data tool that  
24 allows users to estimate the percent of the population from various countries that’s below different  
25 poverty thresholds.<sup>16</sup> To approximate 125 percent of the U.S. poverty line, one can use a \$20 per-

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28 <sup>16</sup> PovcalNet: the online tool for poverty measurement developed by the Development Research Group of the World Bank: <http://iresearch.worldbank.org/PovcalNet/povDuplicateWB.aspx>.



1 person, per-day poverty line in the World Bank online tool. According to the tool, 13 percent of  
2 the U.S. population is below the \$20 per-person, per-day poverty line. (Similarly, 15 percent of the  
3 U.S. population is below 125 percent of the U.S. poverty line.)

4 40. If we apply that \$20-a-day threshold to the rest of the world, many individuals  
5 would fall below that threshold, including:

- 6 • 80.8 percent of the world population;
- 7 • 99.2 percent of the population of South Asia;
- 8 • 98.5 percent of the population of Sub-Saharan Africa; and
- 9 • 79.0 percent of the population of Latin America and the Caribbean.

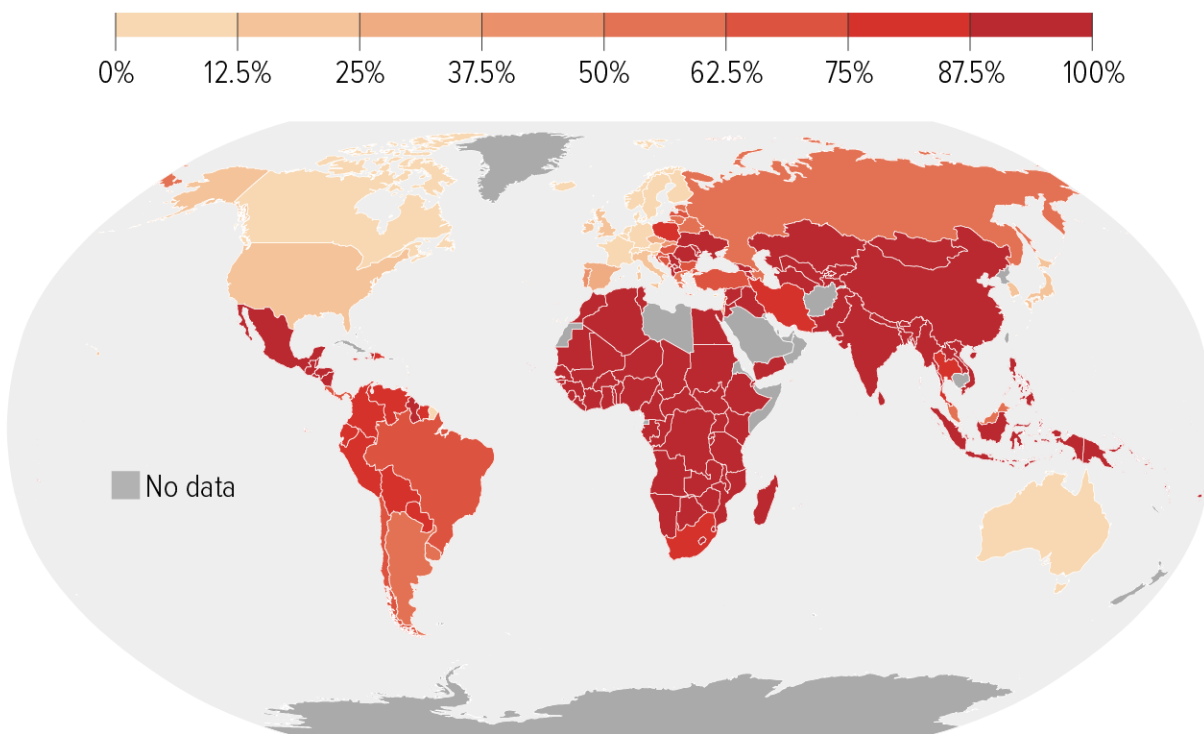
10 Of course, the figures are much different in wealthy countries. In countries the World Bank  
11 defines as “high income,” just 14.4 percent of people in those countries would fall below the 125  
12 percent threshold.

13 41. The map below color codes countries based on the percent of their populations with  
14 income below the \$20 per-person, per-day poverty line. (These calculations use the March 2019  
15 update of 2013 data because they are available for more countries. Currently, the World Bank tool  
16 includes 2015 data for a more limited number of countries.)

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**Income Test in Proposed Public Charge Rule Likely to Keep Many out of United States**

Percent of population with income below \$20 per person per day – roughly the income that immigrants would need to avoid having immigration officials view them as likely to become a public charge



Note: This is an analysis of the income test in the Department of Homeland Security’s public charge inadmissibility proposed rule. Source: CBPP analysis of March 2019 update of World Bank PovcalNet online analysis tool using 2013 reference year and \$20/day poverty line. <http://iresearch.worldbank.org/PovcalNet/povDuplicateWB.aspx>

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42. The above data show that the application of the 125 percent threshold to potential immigrants living abroad is likely to have a significant effect on who would be allowed to come to the United States lawfully. To be sure, many immigrants seeking to rejoin family in the United States will be joining families that also have income that can count toward this 125 percent of poverty test. The test will remain hard, however, for those joining family of modest means, because the arriving individual will have income on the wage scale of their home country.

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1           43.     A country's low wage rates are not determinative of a potential immigrant's core  
2 traits and skills or their ability to develop skills and succeed in the United States. Indeed, poor  
3 individuals have come to the United States and have achieved significant upward mobility for  
4 themselves and their children, helping to grow the nation and its middle class, its industries, and  
5 its innovation sector. For example, as the data above shows, few adults living in Africa earn above  
6 125 percent of the U.S. poverty line. But, once in the U.S., employed immigrant men from Africa  
7 on average earned \$63,101 annually in 2012.<sup>17</sup> That annual salary was enough to lift a family of  
8 four above 250 percent of the poverty line in 2012.

9                     *Immigrants' children tend to be highly upwardly mobile.*

10           44.     By denying entry into or permission to remain in the U.S. to such a broad group of  
11 non-citizens, the rule seems to discount entirely the contributions that immigrants' children would  
12 have to the nation's long-term strength, making the economic case for the new rule even harder to  
13 support. Studies have long found that the children of immigrants tend to attain more education,  
14 have higher earnings, and work in higher-paying occupations than their parents. Economist David  
15 Card observed in 2005 that "Even children of the least-educated immigrant origin groups have  
16 closed most of the education gap with the children of natives."<sup>18</sup> The National Academy of  
17 Sciences' 2015 immigration study similarly concluded that second-generation members of most  
18 contemporary immigrant groups (that is, children of foreign-born parents) meet or exceed the  
19 schooling level of the general population of later generations of native-born Americans.<sup>19</sup> Even for  
20 immigrants without a high school education, the overwhelming majority of their children graduate  
21 from high school. According to a 2017 National Academy of Sciences report, 36 percent of new  
22 immigrants lacked a high school education in 1994-1996; two decades later, only 8 percent of  
23

24 <sup>17</sup> National Academy of Sciences, "The Economic and Fiscal Consequences of Immigration,"  
25 2017, Table 3-10, <https://www.nap.edu/read/23550/chapter/6#106>.

26 <sup>18</sup> David Card, "Is the New Immigration Really So Bad?," National Bureau of Economic  
27 Research, August 2005, <https://www.nber.org/papers/w11547>.

28 <sup>19</sup> National Academy of Sciences, "The Integration of Immigrants into American Society," 2015,  
p. 3, <https://www.nap.edu/read/21746/chapter/2#3>.

1 second-generation children (i.e., children of foreign-born parents) lacked a high-school  
2 education.<sup>20</sup> College completion rates also are higher among the children of immigrants. As of  
3 March 2018, 42 percent of native-born young adult children of immigrants, that is, children now  
4 in their 30s, had a four-year college degree. That’s well above the 32 percent among immigrants  
5 in, roughly speaking, their parents’ generation (immigrants in their 50s), Census data show.<sup>21</sup>

6 45. The United States remains a country with one of the world’s largest and most  
7 dynamic economies. Immigrants contribute to the U.S. economy in many ways.<sup>22</sup> They work at  
8 high rates and make up more than a third of the workforce in some industries. Their geographic  
9 mobility helps local economies respond to worker shortages, smoothing out bumps that could  
10 otherwise weaken the economy. Immigrant workers help support the aging native-born population,  
11 increasing the number of workers as compared to retirees and bolstering the Social Security and  
12 Medicare trust funds in the coming decades. And children born to immigrant families are  
13 upwardly mobile, promising future benefits not only to their families, but to the U.S. economy  
14 overall. Given the inevitable inaccuracies in immigration officials’ predictive capabilities,  
15 removing individuals or keeping them out of the country based on an extremely broad definition  
16 of “public charge” would cost the United States many needed workers, including those who care  
17 for children and seniors and build homes as well as those who start businesses, go to college, and  
18 have children who become teachers, inventors, and business leaders. Forfeiting this talent would  
19 weaken the entire nation and our local communities.

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22 <sup>20</sup> National Academy of Sciences, “The Economic and Fiscal Consequences of Immigration,”  
2017, Table 8-5, <https://www.nap.edu/read/23550/chapter/13#425>.


23 <sup>21</sup> CBPP analysis of the March 2018 Current Population Survey. This analysis examined college  
24 completion rates among immigrants’ children who are between the ages of 30 and 39 as compared  
25 to the college completion rates of immigrants between the ages of 50 and 59. Immigrants’ children  
26 in their 30s were also more likely to have a college degree than immigrants in their 30s (42 percent  
27 versus 38 percent, respectively).

28 <sup>22</sup> Arloc Sherman, Danilo Trisi, Chad Stone, Shelby Gonzales, and Sharon Parrott, “Immigrants  
Contribute Greatly to U.S. Economy, Despite Administration’s ‘Public Charge’ Rule Rationale,”  
Center on Budget and Policy Priorities, August 15, 2019, <https://www.cbpp.org/research/poverty-and-inequality/immigrants-contribute-greatly-to-us-economy-despite-administrations>.

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I hereby declare under penalty of perjury under the laws of Washington, D.C., and the United States that the foregoing is true and correct.

DATE: 9/29/19

  
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Danilo Trisi, Ph.D.