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**PRESS RELEASE:**

**HEALTH LAW ADVOCATES AND PARTNERS FILE AMICUS BRIEFS IN THE SECOND, FOURTH, SEVENTH,  
AND NINTH CIRCUITS OPPOSING THE PUBLIC CHARGE RULE**

***Even Though The Public Charge Rule Is Set To Go Into Effect On February 24<sup>th</sup> after The Last Preliminary  
Injunction Was Lifted, This Cruel Policy Can Still Be Stopped In The Courts***

**Boston, MA-** Health Law Advocates, along with pro bono partner Foley Hoag, LLP and 25 *amici* organizations, recently filed [amicus briefs](#) in four United States Circuit Courts of Appeal opposing the United States Department of Homeland Security's Public Charge rule. HLA and its *amici* partners contend that, in promulgating this rule, DHS exceeds its authority as delineated by Congress and threatens to upend the healthcare policy carefully crafted by state and federal policy makers over many decades.

"This draconian policy, which imposes immigration consequences for *de minimis* usage of public benefits like Medicaid, SNAP and housing benefits, will decrease rates of insurance coverage, decrease routine preventative care, increase risk factors and mortality, and harm public health," said HLA's Legal Director, Justin J. Lowe.

"Representing HLA and the other *amici* in this matter has been a privilege. We were fortunate to work with the attorneys from HLA, who provided creative legal thinking as well as real-world expertise on how the public charge rule can impact HLA's client base and health systems at large," said Kristyn Bunce-DeFilipp, Partner, Foley Hoag, LLP "The Supreme Court's recent decision to lift the hard-won nationwide injunction demonstrates once again the significance of fighting this rule on as many fronts as possible."

The broad coalition of partners joining HLA in its *amicus* filings consist of organizations from across the nation and all sectors of the health care community.

"The public charge rule introduced by the Federal Administration jeopardizes the gains made in Massachusetts in terms of access to health coverage and care," said Amy Rosenthal, executive director of Health Care For All. "On the one hand, state advocates, providers, policymakers and other stakeholders are working diligently to find innovative ways to improve the health care system so that it works for everyone. On the other, the federal government takes away the tools

we need to ensure equity in the Commonwealth. These attacks are making our work more challenging than ever and putting people's health on the line."

"The administration's public charge rule is a direct attack on the health and well-being of immigrant communities. It puts at risk low-income immigrant families' access to health care, food assistance and other critical benefits--and has already caused profound fear and confusion," said Emily Stewart, executive director of Community Catalyst. "By design, the rule creates a wealth test that disproportionately impacts immigrants of color, who already face discriminatory barriers to health and financial security. We are joining this *amicus* brief because it is our responsibility to speak up against injustice -- and because the administration's policy is morally wrong and legally bankrupt."

On August 14, 2019, the U.S. Department of Homeland Security (DHS) published a final rule dramatically expanding the application of immigration consequences to certain immigrants who utilize public benefits. The new rule creates a clear and direct disincentive for immigrants interested in seeking green cards in the future from accessing or utilizing public benefits such as Medicaid, SNAP or housing benefits. As a result, the new rule could cause a significant share of the nearly 23 million noncitizens and U.S. citizens in immigrant families using public benefits to disenroll, causing negative health consequences to cascade throughout the health care delivery system.

"Even while its implementation has been enjoined, the Trump administration regulation incorporating Medicaid into immigration decisions has been scaring people from using medical care and signing up for insurance," said Eliot Fishman, senior director of health policy at Families USA. "Now that the regulation is being implemented, we expect these effects to grow in intensity. Frightening immigrants and their family members is the rule's purpose. Families USA stands strongly against this repugnant approach."

According to recent analysis of U.S Census Bureau data, more than 10 million noncitizens – 47 percent of the noncitizen population in the United States – could experience "chilling effects" from the rule, according to The Migration Policy Institute.

"We are deeply concerned about the impact of this public charge rule on children. The fear that enrolling a child in Medicaid would influence a family's immigration status will almost certainly result in reluctance among immigrant families to secure health care for their children," said Sandra L. Fenwick, CEO, Boston Children's Hospital. "This kind of 'chilling effect' threatens the health and wellbeing of children everywhere. We will continue to work with our partners to reverse this decision, which impacts many of our patients, and even more children and families across the country."

Last week, the U.S. Supreme Court stayed the last remaining national preliminary injunction by the U.S. District Court for the Southern District of New York, thereby clearing the way for the Public Charge Rule to go into effect. This follows decisions by the U.S. Courts of Appeals for the Ninth Circuit and Fourth Circuit also staying preliminary injunctions by the U.S. District Courts for the Northern District of California, Eastern District of Washington and the U.S. District Court for the District of Maryland. The U.S. Department of Homeland Security has announced plans to begin swiftly implementing the Public Charge Rule across the nation on February 24, 2020, except in Illinois where a state-wide injunction remains in place. HLA previously filed *amicus* briefs in cases challenging the Public Charge Rule filed in the U.S. District Courts for the Eastern District of Washington, Northern District of California, District of Maryland, and Southern District of New York.

"Longstanding U.S. Supreme Court precedent prohibits agencies from regulating in a manner that contradicts prior acts of Congress," says HLA Board Member and Distinguished Professor of Law at

Northeastern University, Wendy Parmet. “Particularly where the rule directly undermines the hard-fought improvements in public health resulting from state healthcare programs that were approved of and endorsed by the U.S. Department of Health and Human Services and the Centers for Medicare & Medicaid Services, DHS violates the detailed statutory health policy framework created by Congress.”

HLA wishes to recognize all of the organizations and individuals who contributed to HLA’s Public Charge *amicus* briefs filed in the U.S. District Courts of the Eastern District of Washington, Northern District of California, District of Maryland and the Southern District of New York, and U.S. Circuit Courts of Appeal for the Second, Fourth, Seventh and Ninth Circuits. These individuals and organizations include: Janet Varon and Huma Zarif, Northwest Health Law Advocates; Matt Adams and Sydney Maltese, Northwest Immigrant Rights Project; Kelly M. Dermody and Michael Levin-Gesundheit, Lieff Cabraser Heimann & Bernstein, LLP; Brietta R. Clark, Associate Dean for Faculty, Professor of Law and J. Rex Dibble Fellow, Loyola Law School, Los Angeles; Victoria Pulos, Massachusetts Law Reform Institute; Matthew Owens, Miner, Barnhill & Galland; and Jonathan Engel and Lisa Zycherman, Davis Wright Tremaine, LLP.

Special thanks to Kristyn Bunce-DeFilipp, Andrew London, Emily Nash, Christian Springer and the entire team at Foley Hoag, LLP, for their invaluable contributions throughout the development and authoring of the briefs.

The coalition of *amici* joining HLA in opposing the Rule include:

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| <b>Arab Community Center for Economic and Social Services</b> – Dearborn, MI                             | <b>Health in Justice Action Lab</b> – Boston, MA                               |
| <b>Blue Cross and Blue Shield of Massachusetts, Inc.</b> – Boston, MA                                    | <b>Korean Community Center of East Bay</b> – San Leandro, CA                   |
| <b>Boston Children’s Hospital</b> – Boston, MA   | <b>Maine Immigrants’ Rights Coalition**</b> – Portland, ME                     |
| <b>California Immigrant Policy Center</b> – Los Angeles, Oakland, and Sacramento, CA                     | <b>Massachusetts Association of Health Plans</b> – Boston, MA                  |
| <b>California Pan-Ethnic Health Network</b> – Los Angeles, Oakland, and Sacramento, CA                   | <b>Massachusetts Law Reform Institute</b> – Boston, MA                         |
| <b>Charlotte Center for Legal Advocacy</b> – Charlotte, NC   | <b>Massachusetts League of Community Health Centers</b> – Boston, MA           |
| <b>Children’s Defense Fund – California**</b> – Los Angeles, and Oakland, CA                             | <b>Northeastern University’s Center for Health Policy and Law</b> – Boston, MA |
| <b>Community Catalyst</b> – Boston, MA; St. Louis, MO; Washington, D.C.; Pittsburgh, PA; and Atlanta, GA | <b>Northwest Health Law Advocates*</b> – Seattle, WA                           |

**Community Healthcare Network** – New York, NY

**Families USA** – Washington, D.C.

**Florida Health Justice Project, Inc.** – Tallahassee, FL

**Health Care For All** – Boston, MA

**Public Health Law Watch** – Boston, MA

**The New York Immigration Coalition** – New York, NY

**Treatment Action Group (TAG)** – New York, NY

**UMass Memorial Health Care, Inc.** – Worcester, MA

**Welcome Project, Inc.** – Somerville, MA

\* Signed onto *amicus* brief filed in the Ninth Circuit.

\*\* Signed onto *amicus* briefs filed in the Seventh, Ninth and Second Circuits.