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August 24, 2021

Secretary Tom Vilsack
United States Department of Agriculture
Washington, D.C.

Dear Secretary Vilsack:

I am writing from First Focus on Children, a bipartisan organization dedicated to making children and families a priority in policy and budget decisions, to request that the United States Department of Agriculture (USDA) issue an informational bulletin informing states of the vacatur of the 2019 Public Charge Final Rule and its impact on states.

On July 22, the Centers for Medicare and Medicaid issued an informational bulletin informing states that effective March 9, 2021, the 2019 Public Charge Final Rule was no longer in effect.¹ The bulletin definitively states that an individual's receipt of Medicaid (except in some cases) or the Children's Health Insurance Program is therefore no longer considered in a public charge determination.

At the time that the 2019 public charge rule was finalized, we had many concerns about the impact of the rule and its chilling effect on children's healthy development.² Unfortunately, those concerns materialized. The public charge rule and the resulting "chilling effect" not only impacted the use of health insurance programs, but also enrollment in federal nutrition programs, such as the Supplemental Nutrition Assistance Program (SNAP) and the Supplemental Nutrition Program for Women, Infants, and Children (WIC). A report by Children's Defense Fund-Texas found that in Texas alone, the SNAP program saw a 13.5 percent reduction in enrollment between December 2017 and April 2019, and WIC had lost 18.8 percent of its caseload.³ The National Immigrant Law Center and the Food Research and Action Center found in their report that

¹ "CMCS Informational Bulletin, Public Charge and Safeguarding Beneficiary Information," Centers for Medicare and Medicaid Services, July 22, 2021, <https://www.medicaid.gov/federal-policy-guidance/downloads/cib072221.pdf>

² "Fact Sheet: The Public Charge Rule Harms Children," First Focus on Children, February 2020, https://firstfocus.org/wp-content/uploads/2020/02/FACT-SHEET-Public-Charge_2-20.pdf.

³ Anderson, Cheasty. "Public Charge and Private Dilemmas: Key Challenges and Best Practices for Fighting the Chilling Effect in Texas, 2017-2019," Children's Defense Fund - Texas, November 2020. https://cdf-texas.org/wp-content/uploads/sites/8/2020/11/Public-Charge-and-Private-Dilemmas-TX_FINAL-020.pdf

immigrants were the most afraid to access the SNAP program compared to other federal nutrition programs, and were more likely to apply for Medicaid than SNAP.⁴

Children of immigrants are a quarter of all children in the U.S. and the fastest growing group of children in America.⁵ Despite the fact that the vast majority are U.S. citizens,⁶ children of immigrants experience food insecurity – uncertain access to enough food – at higher rates than other children because of their parents’ immigration status.⁷ When children lack the necessary resources for consistent access to healthy food, they are at risk for malnutrition and other adverse health, educational, and developmental consequences.⁸ Since SNAP helps parents put food on the table for the whole family, it is a vital defense against childhood food insecurity.⁹

We were pleased to see USDA announced a 25 percent increase to SNAP benefits, after the past months of unprecedented food insecurity for children due to the pandemic and economic crisis.¹⁰ Research shows that despite the fact that having enough to eat was one of the top worries for immigrant families with children during the pandemic, they avoided SNAP more than any other public benefit.¹¹ For everyone to fully recover from this pandemic, eligible children of immigrants and their families should feel safe accessing SNAP assistance and benefitting from this important increase.

We urge USDA to follow the lead of HHS and issue a similar bulletin to states making clear that the 2019 public charge rule is no longer in effect, urging states to encourage their eligible immigrant populations to utilize public nutrition benefits for themselves or eligible family members, and reminding states of their responsibility to safeguard the information of applicants and beneficiaries of USDA programs. Misinformation and fear of the public charge rule led many immigrant families who were eligible for nutrition benefits to drop out of programs. Therefore, it is critical that USDA assist state and community leaders in improving enrollment so that children have the proper nutrition they need to grow and thrive. We thank you for your consideration on this important issue.

⁴ “Food Over Fear: Overcoming Barriers to Connect Latinx Immigrant Families to Federal Nutrition and Food Programs,” Food Research and Action Center & National Immigration Law Center, December 2020. <https://www.nilc.org/issues/economic-support/food-over-fear-frac-nilc/>

⁵ “The New Importance of Children in America,” Children’s Hospital Association (Oct. 12, 2017), <https://www.childrenshospitals.org/research-and-data/pediatric-data-and-trends/2017/the-new-importance-of-children-in-america>.

⁶ “Children in U.S. Immigrant Families,” Migration Policy Institute. 2019. <https://www.migrationpolicy.org/programs/data-hub/charts/children-immigrant-families?width=1000&height=850&iframe=true>.

⁷ Chilton, Mariana, Maureen, Black, Maureen, Berkowitz, et al., “Food Insecurity and Risk of Poor Health Among US-Born Children of Immigrants,” American Journal of Public Health, March 2009, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661461/>

⁸ “Food Insecurity: Indicators of Child and Youth Wellbeing,” Child Trends Data Bank, December 2016 <https://www.childtrends.org/indicators/food-insecurity>

⁹ “Measuring the Effect of Supplemental Nutrition Assistance Program (SNAP) Participation on Food Security (Summary),” United States Department of Agriculture Office of Policy Support, August 2013, <https://fns-prod.azureedge.net/sites/default/files/Measuring2013Sum.pdf>.

¹⁰ “Statement: SNAP increase will strengthen food security for 15.8 million children,” First Focus on Children, August 17, 2021. <https://firstfocus.org/news/press-release/statement-snap-increase-will-strengthen-food-security-for-15-8-million-children>

¹¹ Haley, Jennifer, et al., “Many Immigrant Families with Children Continued to Avoid Public Benefits in 2020, Despite Facing Hardships,” Urban Institute, May 2021, https://www.urban.org/sites/default/files/publication/104279/many-immigrant-families-with-children-continued-avoiding-benefits-despite-hardships_0.pdf

If you have any questions, please do not hesitate to reach out to Miriam Abaya, Senior Director of Immigration and Children's Rights (miriama@firstfocus.org) or Olivia Gomez, Director of Health and Nutrition Policy (oliviag@firstfocus.org).

Sincerely,

A handwritten signature in blue ink that reads "Bruce Lesley". The signature is written in a cursive, slightly slanted style.

Bruce Lesley
President