September 18, 2026

Contact:

Press@legal-aid.org
press@ccrjustice.org
Press@democracyforward.org
yatziri.tovar@maketheroadny.org
Press@africans.us

FOR IMMEDIATE RELEASE

Legal Aid, Democracy Forward, Center for Constitutional Rights File Lawsuit to Vacate New Rule Unlawfully Penalizing Low-Income Immigrants Who Receive Public Benefits

(NEW YORK, NY) — The Legal Aid Society, Democracy Forward, and the Center for Constitutional Rights filed a lawsuit against United States Citizenship and Immigration Services (USCIS) and the United States Department of Homeland Security (DHS) seeking to vacate an unlawful new rule that will deny lawful permanent resident (LPR) status to certain aspiring immigrants if they or their dependent children receive supplemental public benefits. The new rule would begin on September 18 and apply to those seeking status through a family member.

The complaint, filed on behalf of **Make the Road New York, the New York Legal Assistance Group (NYLAG), the Association to Benefit Children (ABC), and African Communities Together,** alleges that the new rule, and related guidance, violate the Administrative Procedure Act because they are contrary to the Immigration and Nationality Act, the long-standing interpretation of which has been to reserve a public charge denial for only a very small percentage of LPR applicants who are judged to be primarily dependent on the government for subsistence. Instead, the new rule and guidance are designed to punish intending immigrants, including their children, for receiving even small amounts of nonmonetary, supplemental benefits for which they are eligible.

The rule and guidance are arbitrary and capricious for a variety of reasons. The means tested benefits encompassed by the new policies include health insurance, food assistance, housing assistance, benefits for children including Head Start and WIC (Women Infants and Children), benefits for workers like the Earned Income Tax Credit and Child Tax Credit, and even Pell grants for college students. None of these benefits, used by citizens and non-citizens alike to build financial security and independence, relate to the type of long-term destitution recognized by Congress as making someone a public charge.

The new policies give DHS officers unbridled discretion to deny aspiring immigrants LPR status on public charge grounds. The rule is also a barely disguised cover for the administration's racial animus toward non-citizens and their children.

DHS concedes the rule will create a massive chilling effect on the lawful use of public benefits by noncitizens, including those not even subject to the rule, as well as their U.S. citizen children.

DHS likewise concedes that reduced access to public benefits is likely to have a range of harmful effects on immigrant communities and the public at large, including worse health outcomes, a higher prevalence of communicable diseases, as well as increased rates of poverty, food insecurity, housing instability, and homelessness.

In 2019, USCIS and DHS made a similar attempt to expand the statutory public charge ground of inadmissibility beyond its long-settled meaning, and the Second Circuit and other courts of appeal held that their effort was contrary to law, in excess of legal authority, and arbitrary and capricious.

The lawsuit, filed today in the U.S. District Court for the Southern District of New York, asks the court to declare the new rule and guidance unlawful and have them vacated.

"Tens of thousands of households across the United States currently receive assistance from the government to supplement their wages in this challenging economy," said **Susan Welber, Supervising Attorney at The Legal Aid Society.** "USCIS and DHS's new rule to deny LPR status to aspiring immigrants solely on the grounds that they or their U.S. citizen children receive any form of non-cash government assistance is both wrong on the law and a blatant attempt to bar low-income immigrants, particularly immigrants of color, from becoming permanent residents. This illegal rule, like the 2019 rule, must be vacated by the court to ensure that all aspiring immigrants remain free to live in the United States and pursue economic success for themselves and future generations without sacrificing the health and well-being of themselves, their families, or their communities."

"The rule is inspired by the tiresome and repeatedly debunked notion that racial minorities disproportionately use public benefits and will drain the nation's coffers," said **Angelo Guisado, a Senior Staff Attorney at the Center for Constitutional Rights.** "We are all now bearing witness to the Trump administration's vindictive crusade to remake the United States. Time and again we see that it is the poor, the Black and Brown, or the immigrants who suffer most -- here it is a trifecta."

"No family should have to forgo putting food on the table, getting healthcare, or keeping a roof over their heads because they are pursuing a lawful path to permanent residency," said **Skye Perryman, President and CEO of Democracy Forward**. "Yet that is exactly the unlawful and cruel choice the Trump-Vance administration is trying to force on immigrant families across the country. Congress did not give this administration the power to punish people for accessing basic assistance for which they and their children are eligible. We are honored to represent our clients alongside our partners in challenging this policy and protecting families and communities from its devastating consequences."

"With this rule, more than double the number of New Yorkers will have to choose between receiving benefits that keep a roof over their heads, access to medical care and food on their tables or their ability to become a legal permanent resident," said **Julie Brandfield, Director of New York Legal Assistance Group's LegalHealth Unit**. "Every year, our medical-legal partnership clinics serve nearly 9,000 hospital patients whose families choose to navigate through the complex immigration system and a web of benefits bureaucracy so that they can continue on their journey to becoming healthy and secure Americans. This new rule change will not only harm the cancer patient fighting for their life or the older adult seeking care as they age; it will also harm our organization's ability to give legal advice and services that ensures the best outcomes for the futures of thousands of New York families."

Rebecca Telzak, Co-Executive Director of Make the Road New York, said, "The extreme changes to the public charge rule will cause irreparable harm to our country's health and public services. The Trump administration has actively worked to advance policies that further their anti-immigrant agenda and bar immigrants from being able to apply to any immigration benefit. Despite the rule changes not yet in effect, we have witnessed the chilling effect on immigrant communities; and even among those who are categorically exempt or will not be impacted, their fears have led to questioning unnecessary disenrollment from critical public benefits. At its core, this new rule is cruel: at a time when the cost of everything—from food to housing to healthcare—is unbearably high, immigrant families and U.S. citizen children will be punished for accessing these basic necessities."

"This rule is about more than status; it denies our community members access to healthcare, food, and housing, at a time when people across the country are struggling to have their basic needs met," said **Diana Konaté, Deputy Executive Director of Policy and Advocacy at African Communities Together.** "The rule forces families to choose between maintaining a secure status and visiting the doctor. This is an inhumane and costly decision for our country and will have detrimental long-term effects broader than the immigrants it targets."

###

The Legal Aid Society is a nonprofit law firm that exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For 150 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of the people we serve and helps improve our communities.
www.legalaidnyc.org

The Center for Constitutional Rights works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, the Center for Constitutional Rights has taken on oppressive systems of power, including structural racism, gender oppression, economic inequity, and governmental overreach. Follow the Center for Constitutional Rights on Facebook, @theCCR on Twitter/X, and @ccrjustice on Instagram, and @ccrjustice.org on BlueSky.