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Disability Advocacy Groups File Amicus Brief Opposing the Administration's Appeal of Injunctions Stopping the Public Charge Rule

The American Civil Liberties Union, Center for Public Representation, and seventeen other national disability advocacy groups represented by the global law firm Latham & Watkins filed an [amicus brief](#) in the Ninth Circuit Court of Appeals opposing the Administration's efforts to overturn a preliminary injunction to stop the U.S. Department of Homeland Security (DHS) from implementing its new [public charge rule](#). The advocacy groups will be filing amicus briefs in other cases challenging the rule in the Second and Seventh Circuit Courts of Appeals in the coming days.

The disability advocacy groups – representing tens of thousands of people with disabilities and their families across the country – detail how the new public charge rule will prevent disabled people from entering this country or becoming legal residents in violation of the Rehabilitation Act, the federal law barring the DHS from engaging in disability discrimination. They argue that, in light of those harms, the rule should not be allowed to be implemented while litigation is ongoing.

Twenty-one states, led by California, Washington, and New York, as well as several advocacy groups, [filed cases](#) against the Administration to block the new rule. On the eve of the rule's October effective date, numerous federal district courts issued preliminary injunctions blocking DHS from implementing the rule. DHS is now asking the appellate courts to overturn those decisions.

“The new public charge rule sends the message that people with disabilities are not valued and that disabled immigrants have no place in the United States,” said Alison Barkoff, Director of Advocacy for the Center for Public Representation. “Congress removed the *per se* exclusion of immigrants with disabilities decades ago in recognition of the unfounded, discriminatory nature of such assumptions. Since then, Congress has remained committed to the full inclusion and integration of people with disabilities in this country and has repeatedly passed legislation affirming that commitment. The district courts were absolutely right to find the new public charge rule is contrary to federal law.”

“Congress has explicitly recognized the vital role Medicaid plays in enabling people with disabilities to be productive, contributing members of society, the very opposite of a public charge,” said Claudia Center, Senior Staff Attorney with the American Civil Liberties Union. “Yet under this new rule, immigrants who use Medicaid are punished, even though Medicaid is the only provider of critical disability services and access to it increases employment for people with disabilities.”

“DHS itself admits this rule, which counts someone's disability against them in multiple different ways, will have an ‘outsized’ impact on people with disabilities,” said Samuel Bagenstos, University of Michigan law professor and former Principal Deputy Assistant

Attorney General of the Department of Justice’s Civil Rights Division. “It is disability discrimination, pure and simple, and flies in the face of the progress we have made since the eugenics era of the early twentieth century, when people with disabilities were excluded, segregated, and even sterilized. This rule is an affront to modern disability law.”

“Latham & Watkins recognizes the tremendous value people with disabilities bring to this country and are proud to represent the disability community in the fight against this demeaning and discriminatory rule,” said Sarah Ray, a partner with Latham & Watkins. “The public charge rule not only violates federal law, but is also causing serious fear and confusion among immigrants – especially those with disabilities or whose family members have disabilities. Allowing it to be implemented would have disastrous consequences.”

For more information about the public charge rule and its impact on people with disabilities, see www.medicaid.publicrep.org/feature/public-charge.

Media contacts:

Lauren Weiner, American Civil Liberties Union
212-549-2666, media@aclu.org

Alison Barkoff, Center for Public Representation
202-854-1270, abarkoff@cpr-us.org

Samuel Bagenstos
857-231-1663, sbagen@gmail.com