IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

COOK COUNTY, ILLINOIS, an Illinois governmental entity; **ILLINOIS COALITION FOR IMMIGRANT AND REFUGEE RIGHTS, INC.**, **Plaintiffs,** vs. **KEVIN K. McALEENAN**, in his official capacity as Acting Secretary of U.S. Department of Homeland Security; **U.S. DEPARTMENT OF HOMELAND SECURITY,** a federal agency; **KENNETH T. CUCCINELLI II,** in his official capacity as Director of U.S. Citizenship and Immigration Services; **U.S. CITIZENSHIP AND IMMIGRATION SERVICES,** a federal agency, **Defendants.**	Civ. Action No. 19-cv-06334

DECLARATION OF JOHN PELLER IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Title 28 U.S.C. Section 1746, I, John Peller, hereby declare and state as follows:

1. I am over 18 years of age. I have personal knowledge of the facts set forth in this declaration, except where a fact may be stated on information and belief, and, if called as a witness, could and would testify competently to the matters set forth below.
2. I submit this declaration in support of Cook County, Illinois (the "County" or "Cook County") and the Illinois Coalition for Immigrant and Refugee Rights, Inc.'s ("ICIRR") Motion for Preliminary Injunction. I have compiled the information in the statements set forth below either through personal knowledge, through AIDS Foundation of Chicago personnel who have assisted me in gathering this information, or on the basis of documents that I have reviewed.
3. In this declaration, I explain how the Notice of Proposed Rule Making on Inadmissibility on Grounds of Public Charge (83 Fed. Reg. 51114) ("Proposed Rule") and Final Rule on Inadmissibility on of Public Charge (84 Fed. Reg. 41292) ("Final Rule") have impacted and will further impact AIDS Foundation of Chicago clients in a manner that could severely tax our resources and impact our ability to serve our clients. Specifically, as a leader for effective HIV policies and a national expert on the impact of health care reform on people living with HIV, I fear that the Final Rule will cause patients to forego assistance critical to their physical health and economic wellbeing, worsening the HIV epidemic and leading to the increased transmission of a serious communicable disease in the community.

Background

4. I am John Peller of the AIDS Foundation of Chicago ("AFC").
5. I am the President and CEO of AFC.
6. For over 30 years, AFC has worked to transform the systems that contribute to HIV prevention, awareness, and access to lifesaving care and services. AFC leads the largest

coordinated HIV case management system in the country, ensuring that over 6,000 clients receive medical and supportive services every year.

7. AFC is headquartered in Cook County, Illinois, and is one of the largest AIDS service organizations in Cook County. AFC serves more than 6,000 clients annually in Cook County, with a total of 35 subcontractor clinical service and support/administrative sites and over 100 case managers.

8. I first joined AFC in 2005 and became its President and CEO in 2014. In my current capacity, I lead the organization's programs, policy, communications, strategy and fundraising work.

9. Prior to my position as President and CEO, I served as AFC's at Vice President of Policy from 2011-2014. During that time, I worked on issues across a variety of practice areas, including implementation of the Affordable Care Act nationally and in Illinois.

10. I graduated from The Johns Hopkins University in 1994 with a BS in political science and history and from the University of Chicago in 2000 with a Master's in Public Policy.

11. Over the last five years, I have supervised staff who enroll clients in benefits, such as Medicaid, SNAP, Medicare, Ryan White HIV/AIDS Program (RWHAP) and the AIDS Drug Assistance Program (ADAP). I currently oversee the network of 100 case managers funded by the RWHAP that work in over 30 agencies. These case managers also enroll clients in benefits, such as Medicaid, SNAP, Medicare, RWHAP and ADAP.

12. Over the past 15 years working at the AIDS Foundation of Chicago, I have developed a close relationship and deep knowledge of the HIV community in Cook County and an understanding of the legal and health issues facing these communities. In particular, I have developed an expertise in Medicaid and health insurance.

13. To demonstrate the way that the Proposed and Final Rules regarding public charge have impacted and will impact AFC in the future, I provide information known to me as a longtime CEO and staff member at AFC. By making this declaration, I do not waive any attorney-client privilege or client confidentiality.

AIDS Foundation of Chicago Clients

14. Through the networks AFC has built and continues to fund and lead, it helps support thousands of people living with or vulnerable to HIV along a continuum of care that includes prevention services, primary medical care, housing, emergency support and basic needs, as well as engaging individuals and organizations in vital advocacy efforts.
15. Since it was founded in 1985, AFC has delivered its services in a culturally and linguistically appropriate manner to address the needs of the diverse community it serves, regardless of its clients' immigration status or ability to pay.
16. AFC serves immigrant individuals who may seek to extend or adjust their immigration status, and whose immigration applications will be subject to the Final Rule.
17. Many AFC clients receive Illinois Medicaid, SNAP, and other public benefits.
18. A significant number of AFC's clients are low-income and have either limited skills or education. Many AFC clients also reside in large households.
19. AFC's clients are predominantly people of color. Approximately 23 percent of patients are Latino and 58 percent are African American.
20. AFC's primary client intake is through a hotline staffed by intake staff, who perform eligibility screening and provide referrals to case managers who provide advice on a wide range of issues, including matters related to Illinois Medicaid, RWHAP, ADAP, SNAP, and other programs.

21. AFC intake staff handle over 20,000 calls and 9,000 client visits per year, over 1,450 of which involve an immigrant client (including naturalized citizens) or a mixed-status household.

Expertise in Navigating Complex Health Care System

22. People living with HIV ("PLWH") face a number of challenges in accessing health care services, particularly if they are immigrants, speak limited English, or have low incomes. PLWH must navigate a complex web of safety-net programs, including Medicaid and the RWHAP and ADAP, which have different eligibility standards and requirements. RWHAP and ADAP can "wrap around" Medicaid, filling in gaps in Medicaid benefits. For example, ADAP can cover HIV medications that are not covered by a Medicaid managed care plan.

23. AFC's case managers have developed expertise in navigating these programs, including enrollment, renewing eligibility and ensuring clients get all benefits to which they are entitled that will help to maintain their health. While AFC funds over 100 case managers, they are a finite resource, and time spent helping one client is time that cannot be spent helping another.

Public Charge Rule Has a Dangerous Chilling Effect on HIV patients

24. Untreated HIV is a debilitating, life-threatening communicable disease that devastates an individual's immune system. Today, however, with early and continuous treatment, PLWH can experience near-normal lifespans. HIV medications are central to treatment and are generally easy-to-take with minimal side effects. With access to treatment, PLWH can be productive members of society.

25. In 2017, 39,842 PLWH resided in the state of Illinois, 23,835 of whom were residents of Chicago, and thus Cook County.

26. HIV/AIDS treatment, known as anti-retroviral therapy (ART), is prohibitively expensive in the United States. Many people, including AFC clients, with private insurance or certain employer-based insurance have no choice but to apply for government subsidies for the substantial portion of cost that their insurance plan does not cover.

27. Health care coverage allows AFC clients and PLWH generally to receive the care and treatment they need to stay healthy and to suppress the virus, reducing treatment costs over time and improving their individual health. PLWH whose viral load is undetectable cannot transmit HIV sexually; it is therefore essential that PLWH have uninterrupted access to appropriate HIV medications to prevent transmission of HIV to their loved ones and in the community.

28. Under the proposed rule, immigration applicants living with HIV and others with chronic health conditions would be required to purchase private, "non-subsidized medical insurance" to avoid the Final Rule's effect or rely solely on the incomplete coverage provided by the RWHAP. Thus, the Final Rule would force people living with and vulnerable to HIV to choose between life-saving services or an adjustment of immigration status.

29. Based on my experience, I believe that the public charge rule also will incentivize PLWH—even U.S. citizens or permanent residents not affected by the public charge rule—to terminate their subsidized health care, including Medicaid, out of fear of that enrollment will prevent them from adjusting their status and from petitioning for status for family

members living abroad. Disenrollment will jeopardize their own health and could result in new HIV transmissions in the community.

30. Based on my experience, I further believe the public charge rule will incentivize PLWH—even U.S. citizens or permanent residents not affected by the public charge rule—to terminate assistance or not enroll in programs that are not impacted by the public charge rule, such as RWHAP and ADAP.

31. RWHAP and ADAP provide coverage that is incomplete compared to Medicaid. RWHAP does not cover emergency department visits, surgeries and hospital stays, or specialty care not related to HIV. Thus RWHAP cannot cover treatment for common illnesses, such as cancer or heart disease not related to HIV. Without Medicaid coverage, PLWH with only RWHAP could face thousands of dollars in medical bills for treatment or go without care.

32. The confusing language of the public charge rule, as well as inadequate public education by the government about which benefits the rule includes, will cause some PLWH to be fearful of enrolling in government benefits and other non-governmental assistance programs, or caused them to disenroll altogether. This chilling effect will jeopardize the health of PLWH and could lead to increased HIV transmissions in the community as PLWH go without treatment.

33. In fact, in my experience as President and CEO, I have observed that the Proposed Rule has already caused needless fear. I and those under my supervision who handle client intake and phone calls have seen an increase in inquiries from clients, the general public, and community-based organizations concerned that the public charge rule will cause people to dis-enroll from essential health programs out of fear for their immigration status.

34. Among the sorts of public charge concerns our staff has handled are clients who are afraid to enroll in RWHAP and ADAP, hospital charity care programs, pharmaceutical company patient assistance programs, and other programs that are not affected by the Final Rule because they are confused and don't trust what case managers and doctors tell them.

35. The public charge rule has caused some of our clients living with HIV to be willing only to enroll in ADAP and not other programs. They will not enroll in any other benefits for which they are eligible, even if that enrollment will not impact their ability to later adjust their status. As a result, they are not able to receive medical care and other services paid for by the Ryan White Program of Medicaid, which could lead to debilitating and costly illness. One client will only pay for medical services with his credit card, a situation that is financially unsustainable

36. The public charge rule has also caused clients to be wary of enrolling in non-governmental programs that are not impacted by the final rule, such as hospital charity care programs and pharmaceutical manufacturer assistance programs. As a result, these clients will go without lab tests or specialty health care that will detect, prevent and treat HIV and other serious chronic conditions. Furthermore, they may go without otherwise free medications that would treat these conditions. Clients may face serious illness as a result.

37. Furthermore, access to support services and necessities for daily living improve the health outcomes of PLWH. Many PLWH rely on benefits like SNAP to tolerate medicine, stay healthy, and live productive lives. For example, PLWH are less likely to be virally suppressed if they do not have access to food. Nutritious food is also necessary for PLWH to maintain healthy weight, better absorb medication, and reduce side effects. Having adequate access to food has also been shown to decrease medical costs and increased

adherence to ARVs. Disenrollment from food-based public benefits programs could have devastating consequences for PLWH.

38. AFC has already encountered a client who is an immigrant and is afraid that SNAP benefits would impact their immigration status and refuses to apply.

39. Moreover, approximately 35 percent of AFC's HIV clients experience unstable housing. Stable housing is critical for the health and well-being of PLWH. The public charge rule's chilling effect could deter PLWH from seeking housing assistance, compromising their health. The Housing Opportunities for People with AIDS (HOPWA) program is not subject to the public charge rule, AFC expects that some clients may be unwilling to apply out of fear that the benefit will make them a public charge.

40. I and the staff working under my supervision regularly reassure many of our exempt clients that they should not be subject to the Final Rule and can receive the aid they need without fear of immigration consequences. But our clients regularly inform us that they are still afraid or unwilling to access the health benefits for which they might otherwise qualify.

Impact of Public Charge Rule on AFC

41. AFC has diverted resources since the Proposed Rule's publication in order to respond to the volume of inquiries and matters related to public charge. Our limited staff has had to juggle additional client inquiries related to public charge, while at the same time dedicating significant resources to reviewing the complex draft and final versions of the public charge rule, reviewing legal analyses of the public charge rule, and meeting the demand for trainings and technical assistance by public and private sector service providers. These staff members would otherwise have been available to assist clients with a broader array of problems. An inordinate amount of time is spent trying to convince clients that they can in

fact receive benefits, such as RWHAP or ADAP, which are not subject to the public charge rule.

42. Prior to the publication of the Proposed Rule, public charge was rarely a concern for individuals seeking out our services. But now, we are regularly receiving client inquiries about the rule.

Conclusion

43. AFC's resources have been diverted and taxed because of the upsurge in inquiries from individuals and communities afraid about the public charge rule's implications. We are regularly responding to inquiries from people who should not be directly impacted by the rule—including citizens, LPRs, and humanitarian immigrants—but who are nonetheless afraid. My direct impressions based upon the nature and type of legal inquiries we are receiving from the general public, community organizations, and from other non-profits is that the number of people who will dis-enroll from benefits is much higher than USCIs' 2.5% estimate.

44. I believe this chilling effect will cause PLWH to go without the healthcare and other forms of assistance they need to survive and live healthy lives. Without access to these public benefits, AFC clients' long-term physical and economic wellbeing will be irreparably harmed, and our community may be harmed by an increase in HIV transmissions from people who go without treatment.

I, John Peller, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 24 day of September 2019 in Chicago, Cook County, Illinois.

John Peller