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Local Commissioners Memorandum

Section 1

Table with 2 columns: Field (Transmittal, To, Issuing Division/Office, Date, Subject, Contact Person(s), Attachments) and Value (19-LCM-09-T; 19-OCFS-LCM-25 (Revised), Social Services District Commissioners, Employment and Income Support Programs/Office of Temporary and Disability Assistance, November 19, 2019, Inadmissibility on Public Charge Grounds Final Rule, etc.)

Section 2

I. Purpose

To provide guidance and direction on how to handle inquiries made in the social services districts (districts) regarding the Federal Department of Homeland Security (DHS) published "Inadmissibility on Public Charge Grounds" final rule, which has not taken effect due to a recent court order.

II. Background

On August 14, 2019, DHS published the "Inadmissibility on Public Charge Grounds" final rule. The final rule was anticipated to take effect on October 15, 2019; however, on October 11, 2019, the United States (U.S.) District Court for the Southern District of New York issued an order prohibiting the federal government from implementing or enforcing the rule.

The public charge rule relates to immigration law and applies to certain individuals who seek admission to the U.S. or who seek to change or extend their non-citizen status. Under the current public charge policy, for some non-citizens, their receipt of Public Assistance (PA) or Supplemental Security Income (SSI) may be considered when evaluating whether they are likely

1 U.S. District Courts for the Southern District of New York, Northern District of California, Eastern District of Washington, Northern District of Illinois, and District of Maryland have ordered that DHS cannot implement and enforce the "Inadmissibility on Public Charge Grounds" final rule. Most of the injunctions are nationwide. The court orders also postpone the effective date of the final rule until there is final resolution in the cases.

to become a public charge, which may make them ineligible for admission to the U.S. or an adjustment of immigration status. It is important to note that despite the recent court order, the current public charge policy remains in effect. The published final rule, which has not taken effect, would also permit Supplemental Nutrition Assistance Program (SNAP) benefits to be considered for public charge purposes.

III. Public Charge Inquiries

Individuals may present themselves at the districts seeking clarity on how the receipt of public benefits might impact their immigration status or seek to disenroll from public benefit programs. If an individual has a question specific to public charge, including but not limited to how the receipt of benefits might affect the individual's immigration application or status, workers should inform the individual that they are unable to answer such a question and notify them that they should contact their immigration attorney and/or refer the individual to the New York State (NYS) Office for New Americans (ONA) Hotline at: 1-800-566-7636 or their website:

www.newamericans.ny.gov. Workers must not offer advice, recommendations, or any opinions about how an individual's receipt of benefits could impact a public charge determination. There is no change to the eligibility criteria, application or disenrollment processes associated with PA and SNAP, and any individual seeking to submit an application for consideration or to disenroll from benefits must be permitted to do so.

IV. Necessary Action

The NYS ONA Public Charge Poster (Public Charge Poster) was developed to inform all potentially impacted individuals how to contact the NYS ONA to learn more about obtaining low-cost, immigration-specific legal services. Although the final rule has not taken effect, individuals who are applying or in receipt of public benefits may continue to have questions about public charge. Therefore, until further notice, all districts must display the Public Charge Poster providing information about the NYS ONA hotline.

The Public Charge Poster, presented in both English and Spanish, must be displayed in reception and lobby areas where applications for PA and SNAP are accepted. Districts must post the Public Charge Poster when they receive it in the mail. Districts with more than one office conducting such business must post the Public Charge Poster in all such offices. The Public Charge Poster must be displayed within these areas in a manner reasonably expected to be seen by individuals and should be placed near the Poster Pub 4842, "If you need an Interpreter." Please note, the attached copy of the Public Charge Poster (Attachment 1) is for district worker reference only.

If districts need additional or replacement copies of the English/Spanish version of the Public Charge Poster, or, if districts need copies of the Public Charge Poster in additional languages to meet the needs of their constituents, please send an e-mail to the NYS ONA at: newamericans@dos.ny.gov. Please include the following information in your request: the quantity needed, the language needed, and the address where they should be sent.

V. Questions and Additional Guidance

Additional guidance may be forthcoming on the public charge rule and the projected impact on select programs or benefits.

For questions or additional information please contact:

OCFS Public Information Office at: (518) 402-3130 or info@ocfs.ny.gov

OTDA TA Bureau at: (518) 474-9344 or otda.sm.cees.tabureau@otda.ny.gov

OTDA SNAP Bureau at: (518) 473-1469 or otda.sm.cees.snap@otda.ny.gov

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