



www.legalaiddc.org
1331 H Street, NW
Suite 350
Washington, DC 20005
(202) 628-1161

**Testimony of Andrew Patterson
Senior Staff Attorney, Legal Aid DC**

**Before the Committee on Health
Council of the District of Columbia**

**Performance Oversight Hearing for the Department of Health Care Finance
February 8, 2024**

Good morning, my name is Andrew Patterson and I am a Senior Staff Attorney in the Public Benefits Unit at Legal Aid DC¹. Thank you for the opportunity to testify at this performance oversight hearing.

As the Chairwoman is aware, the restart of medical assistance renewals has resulted in a challenging year for DC Medicaid and Alliance beneficiaries. Today I will focus my testimony on the problems our clients are facing renewing their Medicaid despite submitting timely renewals (manifesting in concerning low rates of completed Medicaid renewals), and the inadequate provision of approved, medically-necessary home health care/personal care aide hours to Medicaid beneficiaries.

¹ Legal Aid DC was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 92 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org.

DC Medicaid Renewals

For years, Legal Aid DC has testified before this committee and the Committee on Human Services about problems with the DC Medicaid and Health Care Alliance renewal process. Since renewals started again after the end of the public health emergency, many hundreds of DC medical assistance beneficiaries have not been able to successfully renew their coverage. Legal Aid DC raised these concerns in our testimony during the September 11, 2023, Public Roundtable on Medicaid Renewals and Redeterminations. At that time, only 61% to 68% of Medicaid renewals that were initiated through July of 2023 were successfully completed.

Since the roundtable, there has continued to be an unacceptably high number of Medicaid terminations. DHCF's November 2023 Recertifications Outcome Report continued to show an average of less than 70% of initiated renewals for the months of May – October 2023 resulted in a completed renewal.² The report also showed that the vast majority of terminations that occurred were not due to ineligibility, but instead due to failure to complete the recertification process. We know from our experience that many of these “failures” are the fault of the Department of Human Services whose staff have failed to process timely submitted paperwork.

Even if the overall rate of renewals has improved slightly (if at all), the number and percentage of the Aged/Blind/Disabled (“ABD”) and Long-Term Care (“LTC”) Medicaid populations who successfully recertify their benefits continues to be alarmingly low. In our testimony at the September roundtable, we noted that only 36% of the ABD/LTC population had successfully renewed their benefits. Although the numbers for November 2023³ (the last month for which data is available on DHCF's website) showed that 73% of the ABD/LTC population successfully renewed their coverage between May and October, that figure includes 17,000 SSI recipients who were passively renewed in the month of October. The previous report, from October 2023, shows that only 43% of ABD / LTC beneficiaries successfully renewed their coverage between May and September (when the 17,000 SSI renewals are excluded.)⁴

² Available at: <https://dhcf.dc.gov/page/monthly-medicaid-renewals-report-00>.

³ November 2023 Medicaid and Alliance Recertification Outcomes, available at: https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/page_content/attachments/Redetermination%20Report%20November%202023.pdf

⁴ October 2023 Medicaid and Alliance Recertification Outcomes, available at: https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/page_content/attachments/Redetermination%20Report%20October%202023.pdf

Finally, DHCF stated in their response to pre-hearing questions that 21% of EPD waiver enrollees who were due to recertify by September 30, 2023, have been disenrolled due to failure to renew their coverage. DHCF noted that some renewals were completed during the 30-day extension period and the 90 day grace period, which shows that some people who were disenrolled from the EPD waiver likely remain financially and medically eligible. Legal Aid testified at the September roundtable about our concern with low-performing case managers, and our experience in the past with EPD waiver terminations that resulted from case managers failing to timely recertify their patients, and included recommendations below to begin addressing this issue.

Recommendations

- 1) Ensure that DHCF and DHS have adequate staffing levels to ensure timely processing of all Medicaid and Alliance renewals. Legal Aid DC has encountered particular challenges with timely processing of renewals that are submitted close to the renewal deadline. In those cases, we have been told the renewal may not be processed before the termination will occur, which in turn often leads to a fair hearing request to ensure continued benefits for the enrollee.

- 2) DHCF/DHS must continue to reach out to Medicaid enrollees whose coverage has terminated during the 90 day grace period.⁵ The 90 day grace period is an important part of protecting DC Medicaid beneficiaries, but DHCF/DHS must ensure meaningful action is taken during the grace period to reach those folks who have been terminated from coverage. Of particular concern is that DHCF's November 2023 report notes that, for the Non-MAGI Medicaid population (which includes the aged and disabled population), the overall response rate during the 30-day extension of coverage and 90 day grace period has been particularly low.⁶

⁵ DHCF has provided a 90 day "grace period" during which people who lose their Medicaid coverage because they failed to respond to their renewal notice can still renew their coverage without submitting a new application. See: <https://dhcf.dc.gov/service/how-renew-your-medical-coverage#:~:text=If%20you%20have%20not%20submitted,as%20the%20renewal%20grace%20period.>

⁶ Medicaid and Alliance Recertification Outcomes, April to October 2023 (available at: https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/page_content/attachments/Redetermination%20Report%20November%202023.pdf)

- 3) Legal Aid DC also continues to endorse the changes proposed by the DC Coalition on Long-Term Care, including: addressing the issue of non-performing case managers (who are responsible for renewing the Medicaid benefits of individuals who receive Medicaid through the EPD waiver); granting access to the DC Direct Partner Portal to beneficiary-designated assisters; shortening/simplifying the renewal documents, which are dozens of pages long. Granting access to the DC Direct Partner Portal to beneficiary-designated assisters, in particular, will help address the problem of non-performing case managers who fail to timely process a beneficiary's renewal.

Thank you again to the Committee for your commitment to ensuring that the District's Medicaid program works for all eligible District residents and for the opportunity to submit this testimony at today's performance oversight hearing.

Workforce Issues with Personal Care Aide Services

In recent years, Legal Aid has increasingly encountered beneficiaries in both regular Medicaid and the Home and Community Based Waiver Program for the Elderly and Physically Disabled (EPD Waiver Program) who do not receive the full number of home health hours for which they have been approved. This seems to be a particular challenge for enrollees who need a relatively low number of hours (usually fewer than 6-8 hours), or enrollees who are approved for a total number of hours per day that would include a full 8 hour shift for one Personal Care Aide, but then a significantly shorter shift for a second aide (so a total shift of more than 8, but fewer than 14-15 hours).

Based on our conversations with our clients, home health agencies directly, and other advocates, it is clear this issue is caused, in large part, by the inability of DHCF to ensure that home health agencies maintain adequate personnel to fully staff the number of approved home health hours. Data from the DC Board of Nursing shows that the number of licensed Home Health Aides declined by more than 1,700 between August 2023 and January of 2024, which represents a decline of more than 20%.⁷

Personal Care Aides provide a vital lifeline to those Medicaid enrollees who, due to illness or disability, are unable to safely complete their activities of daily living. When people who need home health services are unable to get them, their risk of needing to enter long-term care facilities and leave their homes increases, particularly enrollees in the District's EPD waiver program due to their need for a higher level of assistance. Avoiding

⁷ DC Board of Nursing Survey – available at: https://www.dclongtermcare.org/wp-content/uploads/2024/02/Final-Jan-2024_Updated.pdf

institutionalization and allowing people to age in their homes is precisely the outcome that the EPD waiver program was designed to avoid.

Legal Aid DC has represented multiple Medicaid and EPD waiver enrollees in this situation during recent years. We have been told by staff from the Home Health and Case Management agencies with whom the District contracts that they do not have enough staff to meet our clients' needs. Home Health Agencies report that hiring and training adequate personnel continues to be a serious challenge due to competition from other industries. A Home Health Agency representative told me that the job of Personal Care Aide can be very stressful, and wages are simply not high enough to attract enough new aides.

With the assistance of Legal Aid DC, and often through the fair hearing process, we have been able to address these issues for some of our clients, but challenges in this area remain. Additionally, we remain concerned about the dozens if not hundreds of Medicaid enrollees who are not receiving their approved home health care services, and who have not been able to secure legal representation.

Recommendations

- 1) We urge the Council to pass the Direct Care Worker Amendment of 2023. If adopted, this legislation would help to address the shortage of Home Health Aides by reducing or eliminating administrative barriers to Home Health Aides renewing their licenses. It would also allow for certified Home Health Aides from Maryland and Virginia to work in DC without having to obtain a DC-specific license.
- 2) We urge the Council to adopt the recommendations of the DC Health Care Workforce Task Force⁸, in particular the recommendation that requires a minimum wage of 120% of the DC living wage (or minimum wage, whichever is higher) for all direct care workers, including Home Health Aides. This recommendation – which is also included in the Direct Care Worker Amendment – would make wages for this crucially important job more transparent, and more competitive with other industries.

⁸ Available at:

<https://dchealth.dc.gov/sites/default/files/dc/sites/doh/publication/attachments/2023-09-Healthcare-Workforce-Report-web.pdf>

- 3) We urge DHCF to create additional reimbursement mechanisms and/or incentives for PCAs to take shifts shorter than the preferred 7 or 8 hours. For example, DHCF could reimburse PCAs for time spent traveling between one patient and another.