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**Before the Committee on Public Works and Operations
Council of the District of Columbia**

Oversight Hearing Regarding the Office of Administrative Hearings

February 6, 2025

Legal Aid DC¹ submits the following testimony regarding the Office of Administrative Hearings (OAH). Legal Aid's practice at OAH is focused on crucial safety-net public benefits, including Supplemental Nutrition Assistance Program (SNAP) food assistance benefits, cash benefits like Temporary Assistance for Needy Families (TANF) and Interim Disability Assistance (IDA), medical insurance like Medicaid and Alliance, rental assistance, home health aide services, and unemployment benefits.

If a District resident is not receiving their benefit entitlement, OAH is often their only option for obtaining the benefits they are owed. However, as you will hear today, increasing case numbers without a commensurate increase in staffing have left residents waiting unacceptable – and in some cases, unlawful – amounts of time to have their cases heard. Legal Aid DC raised concerns about OAH delays at last year's Oversight Hearing, but unfortunately, the delays worsened since then.

¹ Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. 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 legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org.

Record-Breaking Case Numbers Translate to Long Delays for Residents in Need

In FY24, OAH hit an all-time record for new filings: 33,745 new cases were filed.² This was a 28% increase from FY23 and a 57% increase from FY22, demonstrating a sharp upward trajectory that shows no signs of slowing down.³ Filings are quickly outpacing capacity - OAH disposed of only 75% of the number of cases filed in FY24.⁴

Public Benefits cases comprise a significant component of this increase. For example, there were 3,791 DHS cases filed in FY24, a 51% increase compared to FY23.⁵ This number includes cases involving SNAP, TANF, IDA, and Medicaid eligibility. There were 1,455 cases filed related to the Department of Health Care Finance in FY24, which constitutes more than two times as many cases compared to FY23.⁶ These cases involve Home Health Aide hours and denials of Medicaid coverage.

This increase in volume has caused unacceptable backlogs, which in turn cause immense hardship for District residents waiting to have their cases heard. Legal Aid's clients have experienced significant harm because of these delays, as the three examples below demonstrate:

- Legal Aid filed a case on November 27, 2024, on behalf of a client whose TANF was wrongly terminated and who faced an interruption in her Medicaid. Although more than two months have passed, that case has not even been scheduled for an initial status hearing.
- Legal Aid filed a SNAP case on behalf of a client on December 12, 2024. That client is similarly waiting for an initial scheduling order. The client has special

² See Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 39.

³ See Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 39.

⁴ Compare Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 39 with Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 57.

⁵ See Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 39.

⁶ See Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 39.

dietary needs for medical reasons, which they were unable to meet without their full SNAP entitlement.

- Legal Aid advised another client who filed an appeal of the wrongful termination of her Interim Disability Assistance benefits. This client had no income and was not receiving benefits pending appeal. Nonetheless, she had to wait three and a half months for her first status hearing before an ALJ. In the interim, her inability to pay monthly fees on her storage unit resulted in additional late charges. OAH does not have the authority to order damages to compensate clients for expenses directly related to the deprivation of her benefits. When this client was unable to cover the additional late charges, she faced foreclosure on her storage unit and lost everything that was inside of it. Given this client's experiences of housing instability, virtually all of her belongings were in that storage unit, and she lost decades worth of possessions and memories.

Scheduling delays like these leave District residents waiting months to access crucial safety-net benefits to pay their rent, feed their families, and access necessary medical treatment – expenses that simply cannot wait. In the meantime, they incur additional costs, including late penalties on rent, interest on bills, and other fees that they will never get reimbursed for.

Not only do these delays harm District residents in need, but they also put D.C. out of compliance with federal program requirements, potentially jeopardizing the District's receipt of federal funding. Federal regulations mandate that for cases involving SNAP benefits, a *decision* must be reached within 60 days of receipt of a request for a fair hearing.⁷ This deadline is frequently missed. For Legal Aid DC's client who filed for a SNAP hearing in mid-December, that 60-day deadline will expire on Monday. He has not yet had the opportunity to participate in an initial status hearing, let alone fully resolve his case. For Fiscal Year 2024, OAH's Oversight Responses show that the average time from the filing of an appeal related to SNAP benefits to the initial event in the case was 83 days, already surpassing the 60-day limit.⁸ The statistics are similar in the TANF and Medicaid contexts.⁹

⁷ 7 CFR 273.15(c)(1).

⁸ See Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 40b.

⁹ See Office of Administrative Hearings Performance Oversight FY 2024-2025 Pre-Hearing Questions, Question 40d and e.

A Multi-Pronged Approach Is Needed to Reduce Delays

In order to address this backlog, we urge the Council to prioritize increased OAH staffing and to work with other agencies to resolve issues internally, which could help address the issue of rising case numbers at its source. Further, we recommend that the Council monitor steps OAH can take internally to timely process cases with the resources that are available.

Increased OAH Staffing

To continue delivering the same level of service, more cases require more staff – at all levels of the agency – including support and administrative staff. OAH currently has multiple vacancies where hiring is on hold due to budget constraints. This includes seven Legal Assistants, a Records Management Assistant, an IT Specialist, and an Administrative Officer. These vacancies in administrative and support roles are exacerbating delays in processing cases. OAH must be able to fill these vacancies and hire additional staff as needed in order to process cases in a timely manner.

Increased Council Oversight of Other Agencies, Particularly the Department of Human Services

The Council should also target the root cause of the increased number of OAH filings by applying pressure on other agencies to avoid errors in the first place and to develop better channels to resolve errors internally when they do happen.

In Legal Aid’s experience, the *vast* majority of the increasing number of Public Benefits cases filed at OAH are settled without the need for any involvement from an Administrative Law Judge. There is often no legal dispute in these cases; DHS agrees that the agency has made a mistake. However, other DHS pathways that are designed to resolve these types of issues – including the Service Centers, the Call Centers, and escalation arrangements with the Division of Program Operations – are entirely ineffective. This means that filing at OAH is the only way to force DHS to correct its mistakes. OAH resources are therefore put toward docketing and scheduling cases where intervention should not be needed, or even worse, holding ongoing hearings in cases where the parties are already in agreement as to what the resolution of the case should be, but DHS hasn’t yet been able to implement it. Instead of serving its intended purpose of adjudicating contested cases, OAH is monitoring DHS as it reaches and implements its own decisions. This is not a good use of resources. In other words, OAH is bearing the burden of the dysfunction at DHS. Simple, straightforward errors that DHS

itself acknowledges should be corrected directly with DHS; this would alleviate some of the burden on OAH and likely decrease the number of OAH cases.

Policy Changes at OAH

Finally, OAH must leverage its available resources to address these high case numbers. Specifically, OAH should schedule cases without waiting for DHS to complete Administrative Review Conferences, make better use of the emergency hearing option in the public benefits context, and redistribute cases to ALJs in different subject matter clusters as needed.

OAH has implemented a new policy of waiting until an Administrative Review Conference (ARC) has taken place before scheduling an initial status conference. In Public Benefits cases, District residents have the right both to a fair hearing in front of OAH *and* an ARC with DHS. However, the law is clear that the “use of an agency conference is optional and that *it shall in no way delay or replace the fair hearing process.*”¹⁰ Given the extensive delays and substantial time it takes for DHS to schedule an ARC, OAH’s current practice of waiting to schedule an initial status conference until *after* the ARC precludes District residents from having their cases heard in a timely manner. It also unlawfully delays certain benefits cases, such as SNAP hearings, which must be completed within 60 days.¹¹ To comply with its legal obligations, OAH must return to its previous policy of scheduling public benefits cases without waiting for the ARC to take place. While it would be beneficial for all parties if DHS could resolve cases directly – through the ARC or otherwise - OAH must continue to meet its own regulatory deadlines and schedule cases as soon as possible without allowing delays in ARC scheduling to impede access to the hearing process.

Additionally, OAH must do a better job of triaging cases. Residents have recently struggled to obtain expedited, emergency hearings in cases that clearly warrant it. While most cases before the agency are urgent, there are differences of degree - for example, a client whose benefits have been terminated may have more urgent needs than a client who is appealing one month of back benefits. Someone who is *not* eligible to receive ongoing benefits while their administrative appeal is pending may experience more pressing needs than someone who is receiving benefits pending an OAH determination. OAH’s Emergency Hearing option in the Public Benefits context therefore serves the very important role of prioritizing particularly acute cases. However, this past fall, Legal

¹⁰ 7 CFR 273.15(d)(1) (emphasis added)

¹¹ 7 CFR 273.15(c)(1).

Aid filed an Emergency Fair Hearing request on behalf of a family experiencing homelessness. This family was wrongfully denied TANF and was not receiving the correct level of SNAP, leaving them unable to afford basic necessities, including food. One of the children's Medicaid was wrongfully terminated, leaving that child unable to attend a time-sensitive appointment, while a parent faced an imminent Medicaid termination. In short, a vulnerable family without stable housing was experiencing issues with virtually all of their benefits. Yet the Office of Administrative Hearings denied the request for an emergency hearing. This was precisely the type of case the emergency hearing procedures were designed for and should have been recognized as such.

We urge OAH to consider more evenly distributing cases amongst ALJs. The backlogs at OAH are significantly more pronounced in some areas than others. OAH should increase distribution of cases to ALJs from clusters with lower case volume to help tackle particularly high backlogs.

Accessibility

Finally, Legal Aid applauds OAH for the strides it has made in the past year relating to accessibility. OAH began publicly releasing substantive orders, a topic that was raised at oversight hearings many years in a row. The OAH Resource Center is helping an increasing number of people, and OAH has updated its website and forms. However, as described above, the delays in processing cases that were raised at last year's Oversight Hearing have persisted, if not worsened.

Conclusion

We appreciate the Council's attention to these issues, as well as OAH's ongoing efforts to improve operations and provide access to justice. We look forward to working with the Committee and OAH following this hearing to achieve these goals.