



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

**Testimony of Eric Swenson
Senior Staff Attorney, Public Benefits Unit
Legal Aid DC**

**Before the Committee of Executive Administration and Labor
Council of the District of Columbia**

Performance Oversight Hearing Regarding the Department of Employment Services

February 11, 2026

Legal Aid DC¹ submits the following testimony regarding the Department of Employment Services (DOES).

Legal Aid DC represents DC workers experiencing issues accessing their unemployment benefits. These issues are often technical, administrative, or legal problems causing any number of issues for claimants ranging from delays in payment of new unemployment claims to allegations of overpayments of prior benefits (some as old as pandemic era or earlier). We acknowledge and appreciate the efforts DOES and this committee have made to improving the lives of DC workers through the efficient operation of the unemployment compensation system. Likewise, we look forward to continuing to work with the Council and DOES to address the issues included in this testimony.

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.

Technical Issues Continue to Occur Despite a New Online Unemployment Compensation Portal

DOES implemented a new unemployment claim portal in early 2024. The DC Networks system implemented by DOES has improved functionality. For example, claimants can upload documents directly into the portal instead of emailing sensitive documents to a generic fact-finding email address. Also, the portal has a more user-friendly interface for submitting weekly claims cards and initial claims.

Despite these improvements, Legal Aid is raising the following technical issues our clients experience related to identity verification and account creation:

- For a claimant newly accessing this portal to file a new claim for benefits, the portal's accompanying identity verification apparatus, ID.me, does not permit claimants to use the full scope of identity verification that DOES would accept when taking in-person applications.
- For a claimant who does not complete the account set up process in their first attempt, there is no way for the claimant themselves to re-enter the account creation process.

For example, Legal Aid client Ms. A's driver's license and passport had recently expired when she tried to complete her first unemployment application. Because ID.me would not accept these documents or any other, she was not able to use the automatic identity verification system. DOES requires individuals to use ID.me to access the online portal. While DOES itself accepts many documents and proofs of identity for identity verification,² the online ID.me system requires unexpired driver's licenses or passports.³ These problems affected Ms. A by rejecting her recently expired identification cards.⁴

² See "Proving Your Identity," (available at <https://unemployment.dc.gov/page/apply-benefits>) (last accessed Feb. 5, 2026).

³ See "Documents you need to verify your identity with ID.me," (available at <https://help.id.me/hc/en-us/articles/4415460350871-Documents-you-need-to-verify-your-identity-with-ID-me>) (last accessed Feb. 5, 2026).

⁴ See "What to do if your document isn't accepted by ID.me," (available at https://help.id.me/hc/en-us/articles/360058791094-What-to-do-if-your-document-isn-t-accepted-by-ID-me?utm_campaign=tt&utm_content=rejected&utm_medium=homepage&utm_source=hc) (last accessed Feb. 1, 2026).

Legal Aid advised this client to visit an American Jobs Center (AJC) to provide I-9 type identification documents that DOES accepts outside of the ID.me process. This process delayed Ms. A in completing her initial claim for at least one week because of the disconnect between what DOES accepts and what ID.me accepts.

In another case, Mr. G came to Legal Aid for assistance when he had a different technical problem. Mr. G started to create his online account with DC Networks, but he could not finish the process in a single session. The portal would not let him restart the process, reset his account, or take any other step when he tried to regain access. Mr. G, who had recently left the District and lived on the west coast, was at a loss for what to do for months before coming to Legal Aid. Legal Aid advised Mr. G on how to document and communicate his situation to DOES as a request for technical assistance.

DOES has a little-advertised yet helpful appointment system for in-person meetings at the three AJCs in the District.⁵ DC workers can use the online system to schedule an appointment at the AJC of their choice. In addition, they can state the purpose of their visit and get a receipt for their request for an appointment. The committee should note that this option is of limited use for former DC residents recently displaced to other jurisdictions and unable to return for in-person appointments.

Further commitment from DOES to a variety of options for solving technical issues would lower frustration and reduce wait times for resolution. DOES should continue to operate walk-in schedules at the AJCs, but should also:

- Advertise the appointment option on the portal's home page.
- Allow phone and virtual appointments in addition to in-person appointments.
- Add more options to the list of appointment types to include more of the specific types of issues DC workers most commonly experience, like problems creating a profile or accessing the portal, problems filing an initial claim, or problems filing ongoing claims.⁶

⁵ See <https://does.dc.gov/service/american-job-center>

⁶ Appointments for workers relating to unemployment claims are limited to the broad categories of "Unemployment Overpayment Help" and "Unemployment Insurance Benefit Help." Neither address technical problems in setting up an account or filing an initial claim.

Administrative Issues Create Significant Confusion and Overburden Legal Service Providers and the Office of Administrative Hearings (OAH)

Legal Aid also regularly assists clients facing administrative issues with the District's unemployment compensation programs. Legal Aid is usually able to resolve this category of problems through informal advocacy directly to specific points of contact at DOES. These administrative issues likely exist for many individuals who are not eligible for Legal Aid's help or otherwise do not know they could fix the problems. Here, we raise, or re-raise, three administrative issues that appear to be fully within the control of DOES to eliminate so that legal issues are not unfairly created.

Invalid Notices from DOES

When a person applies for unemployment compensation, they become a claimant. Often DOES's first response to the claimant comes in the form of a notice of monetary determination and maybe a second notice if there is a problem the claimant needs to resolve. A notice stating there is a problem preventing payment of benefits for any reason stops the claimant from being able to get any unemployment compensation until that problem is resolved. However, sometimes these notices are not logical, and some have been found to be invalid by OAH.

In the typical invalid notice situation, DOES sends a notice of a problem to the claimant. The notice asserts that the claimant was both found ineligible for benefits in *future* weeks and, somehow, has already been overpaid for those future weeks. When we have followed up with DOES regarding these notices on behalf of our clients, we have learned that although they do often indicate an issue with the claim, the person has not in fact been found to be ineligible for unemployment or overpaid. Instead, the claimant often needs to simply provide some additional information to DOES in order for DOES to finish processing their claim. Of course, this is impossible to know from the plain language of the notice.

OAH judges are aware of this kind of invalid notice, through appeals of these types of notices to OAH. Helpfully, OAH judges have the authority to overturn a DOES notice without a court hearing. In the words of one such reversal issued by an OAH judge without a hearing, the notice in that case was:

“facially invalid because it provides confusing or conflicting information about the reason for the decision, stating without support or explanation that Claimant was found to be ineligible for benefits and overpaid said benefits.”

Nonetheless, the claimant in that case had to appeal the DOES decision because the invalid notice they received informed them that it was a final decision that would stop

them from getting any unemployment benefits. Logically, the claimant went through the OAH appeal process because they were worried about their financial health if they were cut off from unemployment compensation. These burdens on the claimant were caused by DOES issuing a notice that, on its very surface, was easily found invalid by an administrative judge.

When DC workers come to Legal Aid with this type of invalid notice from DOES, we know it is likely a simple administrative problem that can be fixed quickly with an email or, at worst, a quick appeal to OAH. But, for workers handling this on their own, they would have to decide what to do in the face of this “confusing or conflicting information.” They would have to learn how to file an appeal with OAH. If a worker calls DOES, DOES call center staff might tell them not to worry about the notice because it will be fixed. The worker may give up entirely.

Unemployment denials are only appealable within fifteen days of when the notice is mailed and the notice of an unfavorable decision stops payment of all unemployment benefits. Therefore, a person who decides not to appeal the invalid notice is risking forfeiting their eligibility for benefits. DOES could either harshly enforce the invalid notice, or it could waive enforcement and allow the person to reapply for unemployment benefits. Instead of leaving the financial health of DC workers up to chance, this committee should require DOES to eliminate invalid unemployment notice issues affecting DC workers.

“Zombie” Debts

Second, DC workers continue to encounter scenarios of “zombie debts,” where DOES fails to communicate with federal agencies about workers’ records year after year. These scenarios involve workers who were allegedly overpaid for unemployment insurance (UI). The amount they were supposedly overpaid is reported and referred to the U.S. Department of the Treasury for debt collection through offset of the worker’s federal income taxes (a program called the Treasury Offset Program, or TOP). These workers then later successfully get their overpayments reduced or reversed, but DOES fails to properly notify the TOP of the revised decision. Due to DOES’s improper management of what debts are reported to TOP, the DC worker bears the burden of the federal government garnishing or offsetting the worker’s tax refunds by mistake.

What is worse, Legal Aid assists clients with this issue year after year. These improperly reported UI debts being resurrected again and again after DOES informs Legal Aid that they are fully resolved is one of the worst features of this issue. Although Legal Aid helps resolve the issue in one tax year, we must inform the client that the same issue may reoccur the next year. So, an inappropriately garnished tax refund is returned to the DC worker in one tax year, but the fear and uncertainty that the District government cannot

permanently fix this problem remains. Then, in the next tax year, another tax return is garnished and the DC worker must again fight to get the money back. This committee should help DC workers by requiring DOES to change its TOP referral process to ensure that all debts reported to TOP are accurately verified as still owed every tax year. This will ensure that DC workers do not endure an endless cycle of improper tax refund garnishments.

Artificial Urgency in Critical Communications

DOES also at times sends requests to claimants with extremely short and arbitrary deadlines for returning information to them, with harsh consequences for noncompliance.

For example, DOES required Mr. B to verify his identity after Legal Aid helped him win an appeal of an initial denial of benefits at OAH. Mr. B already went through the ID.me process to make his initial claim. That verification was apparently not available to a DOES claims examiner who called Mr. B. The claims examiner stated that Mr. B had to send his identification documents (including his social security card) within 10 minutes to the claims examiner via email. The claims examiner informed Mr. B that non-compliance would result in the claims examiner determining Mr. B did not comply with DOES's reporting requirements. Such a determination would require DOES to decide Mr. B was also not eligible for benefits.

Because Legal Aid already represented Mr. B, we quickly helped him overcome reasonable fears that the urgent request was from a fraudster attempting to steal his identity.⁷ Mr. B received his full benefits after we successfully resolved the identity verification issue. DOES must be made to standardize their procedures and to not use arbitrary deadlines when contacting DC workers over the phone to create artificial urgency (that can be mistaken for attempted identity theft) with dire consequences on claimants.

Unlawful Automatic Imposition of Fraud Findings

DOES claims examiners allege fraud whenever an individual is allegedly overpaid for a set number of weeks, when the benefits they are paid exceed a set value, and depending on whether the individual has been overpaid before. In effect, DOES alleges fraud whenever an individual is overpaid four or more benefit weeks. DOES standard operating

⁷ See "How I'll Avoid a Scam" (available at: https://consumer.gov/system/files/consumer_gov/pdf/1096A_HowIllAvoidAScam-ActionPlan-508.pdf) (last accessed Feb. 6, 2026) ("Scammers tell you to hurry. They don't want you to have time to think.").

procedures⁸ coach claims examiners to impose fraud penalties, including fines of fifteen percent of the amount claimants are overpaid, without further investigation.

This DOES practice is in opposition to the DC Code. The DC Court of Appeals prevents DOES claims examiners from engaging in such automated rubber-stamping of fraud allegations and instead requires “particularized findings of fraud with reference to the individual claimant.”⁹ A finding of fraud also requires a finding of intent on the part of the claimant – something DOES fails to consider in its process. In fact, in many cases where Legal Aid has represented claimants after DOES issued a fraud finding, we learn that the claimant had no intent to commit fraud and DOES never claimed otherwise.

DOES’s continued reliance on automated allegations of fraud is an unfair hardship on DC workers. DC workers facing a fraud allegation often do not have legal advice on what they can do next. If they fail to appeal the overpayment and fraud allegation within fifteen days of the original notice of the decision against them, they lose any right to appeal the rubber-stamp decision that fraud penalties are owed unless they can prove either good cause or excusable neglect in failing to appeal on time. Thus, the agency is creating legal jeopardy and assessing excessive fines on these individuals who, if their claims had been examined correctly, would likely not be accused of fraud in the first place.

Legal Aid requests this committee require DOES (1) to change its processes and procedures related to fraud assessments so that all fraud determinations are made after individualized investigation of intent and (2) to reassess all overpayments that include a fraud allegation and are still owed to the District to ensure they meet the legal standard.

Conclusion

DOES is a critically important component of the anti-poverty system in the District of Columbia. As the federal government eliminates equity as a consideration in the management of the unemployment system,¹⁰ it is up to this committee, DOES, and

⁸ DOES last provided Legal Aid DC with copies of their Standard Operating Procedures in 2018. Those are the SOPs we are referring to in this statement.

⁹ See *Jacobs v. District Unemployment Compensation Bd.*, 382 A.2d 282, 289 (D.C. 1978).

¹⁰ Compare Unemployment Insurance Program Letter No. 23-21, Change 5 (accessible at: <https://www.dol.gov/agencies/eta/advisories/uipl-23-21-change-5>) with Unemployment Insurance Program Letter No. 01-24, Change 1 (rescinding UIPL No. 23-21, Change 5 and others) (accessible at: <https://www.dol.gov/agencies/eta/advisories/uipl-01-24-change-1>).

District businesses and workers to collaboratively build a more just environment of laws, rules, and procedures for the unemployment system. The time to act is now, before the next widespread unemployment crisis begins.

Legal Aid welcomes all opportunities to collaborate with this committee, its members, and DOES to achieve the changes we suggested in this testimony or any other such improvements that would build a more just system of unemployment compensation in the District.