

**Testimony of Damon King  
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**Before the Committee on Health  
Council of the District of Columbia**

**Budget Oversight Hearing Regarding the Department of Health Care Finance**

**April 19, 2018**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony to express our deep disappointment that the Mayor’s proposed FY19 budget for the Department of Health Care Finance (DHCF) fails to allocate **any** funds to implement legislative fixes to the Healthcare Alliance program passed by the Council in 2017.

Last year, the Council unanimously passed the DC Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017, legislation aimed at ensuring that District residents who receive health coverage through the Alliance do not continue to lose their coverage under the program’s burdensome recertification requirements. If implemented, the Act would go a long way toward protecting Alliance enrollees by ensuring that even this most vulnerable population can maintain access to health care.

Unfortunately, the Mayor ignored the Act in her proposed budget. Instead, she chose to continue implementing a policy that needlessly terminates Alliance enrollees from health coverage for which they qualify and drives up health care costs. This is unacceptable. **We urge the Council, beginning with this Committee, to ensure that the FY19 budget funds the DC Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017. This Act must be implemented during the coming fiscal year.**

**VULNERABLE DISTRICT RESIDENTS ARE LOSING COVERAGE DUE TO BURDENSOME RECERTIFICATION REQUIREMENTS**

The Alliance program plays a vital role for very low-income District residents who are not eligible for Medicaid, allowing them to maintain health insurance and receive the medical care that they need. However, the program’s recertification policy, which requires enrollees to recertify that they are eligible for coverage – in person – every six months, has long caused problems for this program and its beneficiaries. In order to recertify, a person must go to a Department of Human Service (DHS) service center where staff are tasked with conducting the

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<sup>1</sup> The Legal Aid Society of the District of Columbia 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.” Over the last 85 years, tens of thousands of the District’s neediest residents have been served by Legal Aid staff and volunteers. Legal Aid currently works in the areas of housing, family law, public benefits, and consumer protection. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

program’s “in-person interviews” and confirming eligibility. However, the service centers have long been plagued by long lines, inefficiency, and capacity limitations, making them very difficult to access.<sup>2</sup> As we testified during performance oversight this year, enrollees often line up outside service center buildings in the pre-dawn hours each morning – between 3 and 4 AM, or even earlier – just for the opportunity to be seen by DHS staff.<sup>3</sup> Enrollees who do not (and even those who do) line up so early run the risk of being turned away because when a service centers reach capacity each day, people in line are told to come back another time to try again.<sup>4</sup> If turned away, an enrollee’s only options are to either line up again another day or resign themselves to the fact that they will lose their health insurance.

This policy therefore makes it extraordinarily difficult for District residents who rely on the Alliance program for health coverage to stay covered, leading enrollees to experience terminations and gaps in their coverage. In 2015, for example, between 56% and 71% of Alliance enrollees who were due to recertify each month did not complete the re-certification process.<sup>5</sup> While we do not have updated data for 2017, FY17 performance oversight data shows that nearly one-third (31%) of Alliance enrollees who were terminated in FY17 re-enrolled within a year.<sup>6</sup> This means that almost a third of Alliance beneficiaries who lost their benefits were found to be eligible for the program a short time after their termination, raising questions about whether their termination was due to a genuine eligibility lapse.<sup>7</sup> Rather than ensuring

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<sup>2</sup> Legal Aid has testified on multiple occasions over the years about problems at the service centers. *See, e.g.*, Testimony of Carolyn Rumer, Equal Justice Works Fellow Sponsored by Latham and Watkins, Legal Aid Society of the District of Columbia, Before the DC Council Committee on Human Services March 8, 2018, available at <https://www.legalaiddc.org/wp-content/uploads/2018/03/Legal-Aid-FY17-18-Performance-Oversight-Testimony-re-DHS-Service-Centers-Alliance-SNAP-FINAL.pdf>, pp. 1-2; Testimony of Carolyn Rumer, Equal Justice Works Fellow, Chelsea Sharon, Staff Attorney, Curt Campbell, Staff Attorney, Jennifer Mezey, Supervising Attorney, Legal Aid Society of the District of Columbia, Before the DC Council Committee on Human Services, March 15, 2017, available at <https://www.legalaiddc.org/wp-content/uploads/2017/03/CRumer.3.15.17.pdf>, p. 3; Testimony of Curt Campbell, Staff Attorney, Legal Aid Society of the District of Columbia, Before the DC Council Committee on Health and Human Services, February 25, 2016, available at <https://www.legalaiddc.org/wp-content/uploads/2016/02/ccampbell2-25-16.pdf>, pp. 2-3.

<sup>3</sup> Testimony of Carolyn Rumer, Equal Justice Works Fellow Sponsored by Latham and Watkins, Legal Aid Society of the District of Columbia, Before the DC Council Committee on Human Services, March 8, 2018, pp. 1-2. We also discussed this at DHCF’s performance oversight hearing. Testimony of Jennifer Mezey, Supervising Attorney, Legal Aid Society of the District of Columbia, Before the DC Council Committee on Health, February 23, 2018, pp. 2-3. Available at: <https://www.legalaiddc.org/wp-content/uploads/2018/02/Legal-Aid-Performance-Oversight-Testimont-re-DHCF-FINAL.pdf>

<sup>4</sup> *Id.*

<sup>5</sup> Testimony of Chelsea Sharon, Staff Attorney, Jennifer Mezey, Supervising Attorney, Legal Aid Society of the District of Columbia, Before the DC Council Committee on Health March 8, 2017, p. 1. Available at: <https://www.legalaiddc.org/wp-content/uploads/2017/03/CSharon-03-08-2017.pdf>

<sup>6</sup> DCHF FY17-FY18 Performance Oversight Responses, Q46.

<sup>7</sup> An additional 24% of Alliance beneficiaries who lost their benefits in 2017 were not reenrolled in a year. *Id.* While DHCF might claim that these individuals who were never eligible for Alliance in the first place, our

continuous coverage for members of our community who need it, the District's current policy creates unnecessary coverage losses and cycles into and out of the program.

The Council often takes pride in the District's efforts to expand access to health coverage – and in many cases rightfully so. And yet, in a District-funded program that is supposed to catch District residents who don't qualify for coverage anywhere else, we have instead maintained barriers to coverage that are unnecessary and, in fact, counter-productive.

## **THE DC HEALTHCARE ALLIANCE RE-ENROLLMENT REFORM AMENDMENT ACT IS A LEGISLATIVE SOLUTION TO WHAT PLAGUES THE PROGRAM**

In the fall of 2017, the Council recognized that we cannot and should not wait any longer to stop this cycle of arbitrary coverage cut-offs. Specifically, the Council unanimously passed two different pieces of legislation, both aimed at reforming the recertification process:

- In December 2017, the Council passed the DC Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017, which would repeal the current six month, in-person recertification requirement and replace it with an annual certification schedule similar to what is already in place for Medicaid enrollees. Further, it would allow enrollees who need to recertify to do so at community health centers, rather than going to service center sites. The Act passed the Council by votes of 13-0 and 12-0,<sup>8</sup> reflecting widespread recognition that current policy is unnecessary, harmful, and needs to change.
- In October 2017, the Council enacted the DC HealthCare Alliance Recertification Amendment Act of 2017, which does not repeal the six-month recertification requirement, but would allow Alliance recipients to complete one bi-annual recertification interview per year by phone rather than in-person at the service centers. This legislation also passed the Council by votes of 13-0 and 12-0.<sup>9</sup>

The Healthcare Alliance Re-Enrollment Act in particular directly addresses the main problems caused by current policy. First, by shifting to a Medicaid-like annual recertification schedule, the Act would significantly ease burdens on enrollees, who would no longer have to worry about losing their health coverage every few months, while also still allowing for regular review of eligibility. Second, by allowing enrollees to recertify at community health centers, the Act would provide enrollees with the option of recertifying in settings with fewer lines and greater language capacity – an issue that we have repeatedly heard is an obstacle to successful service center recertification. Both of these changes would also help ease burdens on the service

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experience (and the limits of DHCF's data) suggest that this is not the case. In fact, it is entirely possible that some of these 24% got back on benefits after a year.

<sup>8</sup> See, <http://lirms.dccouncil.us/Legislation/B22-0231?FromSearchResults=true>

<sup>9</sup> See, <http://lirms.dccouncil.us/Legislation/B22-0194?FromSearchResults=true>

centers, allowing DHS to focus on reducing wait times and improving service delivery to participants in all DHS-administered public benefits programs.

The Council has rightfully recognized that the time for reform is now, crafting a thoughtful approach that gets to the heart of what has made it so difficult for Alliance enrollees to maintain health coverage.

## **THE MAYOR’S PROPOSED BUDGET FAILS TO FUND REFORM**

In spite of the Council’s unanimous votes for repealing the six-month, in-person recertification requirement and providing enrollees with more recertification options, the Mayor’s budget ignores all efforts to reform the program. The proposed budget allocates **no** funding for the implementation of the Alliance Re-Enrollment Reform Amendment Act, and even fails to fund the more modest HealthCare Alliance Recertification Amendment Act. Instead, the Mayor leaves in place the current policy – one that continues to place eligible enrollees’ health coverage in jeopardy every few months.

When questioned about the Administration’s inaction at a recent budget briefing,<sup>10</sup> DHCF Director Wayne Turnage revived claims that the Administration made last year that, in the absence of a more stringent recertification requirement, there would be a risk of non-District residents engaging in fraud and in order to access or remain in the program. This is disappointing for two reasons.

First, given that the primary difference between the Medicaid population and the Alliance population is that Alliance primarily serves the District’s immigrant community, maintaining two different recertification processes with the more difficult one applying to Alliance enrollees sends a disturbing message that the District government believes that the immigrant community is more likely to engage in fraud than others in order to obtain benefits. Whether it is intentional or not, this is an unfortunate time for the District government to be reinforcing longstanding and persistent anti-immigrant myths and stereotypes in its policies.

Second, in the context of the debate over these policy changes, Director Turnage is making an old argument – one that was considered and rejected by the Council unanimously each time they voted for each of the two bills discussed above. Each bill had its own hearing and at each, the Administration raised this concern.<sup>11</sup> Councilmembers had the chance to question

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<sup>10</sup> Specifically, the April 4, 2018 Public Health & Finance Budget Briefing, hosted jointly by the DC Primary Care Association, the DC Hospital Association, the DC Behavioral Health Association, and DC Health Care Association.

<sup>11</sup> Director Turnage’s written testimony regarding the DC HealthCare Alliance Recertification Amendment Act of 2017 raises concern that the bill’s language allowing enrollees to re-certify over the phone (as opposed to appearing in person) “... might increase the risk of nonresident enrollment, by making it easier for individuals to satisfy the interview requirement from outside the District.” Testimony of Wayne Turnage, Director, Department of Health Care Finance, Before the DC Council Committee on Human Services, April 24, 2017, p. 6.

While the written record of Director Turnage’s testimony regarding the DC Healthcare Alliance Re-Enrollment Reform Amendment Act appears not to be complete, in his oral testimony, Director Turnage discussed the Administration’s ongoing concerns about residency fraud in the Alliance program as it is currently structured.

Director Turnage about the Administration’s position; to hear from members of the community, including Legal Aid, who pointed to potential flaws in the Department’s analysis; and most importantly, to weigh the Administration’s argument against the damage that the current policy continues to do to Alliance enrollees. Ultimately, the Council decided to prioritize protecting Alliance enrollees from coverage cut-offs, moving both bills forward. Director Turnage is not bringing a new argument to the table – it is the same material that the Council considered and largely rejected a year ago to the tune of two committee votes and four unanimous full Council votes.

Instead of engaging in damaging rhetoric and re-litigating a policy debate that we have already had twice in the last year, the Administration should be looking to work with the Council and the community to implement these much-needed changes.

**THE COUNCIL MUST FUND REFORMS SO THEY CAN GO INTO EFFECT IN FY19**

The Council should not allow the Mayor to obstruct reform and ignore its legislative decisions, particularly when they were made without a single “no” vote and with widespread community support. However, given that the Mayor has chosen this path, the Committee must do what the Mayor did not: fund the DC Healthcare Alliance Re-Enrollment Reform Amendment Act of 2017 and put it on the path to implementation.

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Testimony of Wayne Turnage, Director, Department of Health Care Finance, Before the DC Council Committee on Health, May 19, 2017.