

**Testimony of Damon King
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**Before the Committee of the Whole
Council of the District of Columbia**

Public Hearing Regarding:

**Bill 23-0209
"Fiscal Year 2020 Budget Support Act of 2019"**

**Bill 23-0208
"Fiscal Year 2020 Local Budget Act of 2019"**

**Bill 23-0207
"Fiscal Year 2020 Federal Portion Budget Request Act of 2019"**

April 26, 2019

The Legal Aid Society of the District of Columbia¹ submits the following testimony to urge the Council to address significant failures in the Mayor's proposed FY20 budget. Too many of the District's most vulnerable residents continue to face serious challenges as they try to build and maintain lives for themselves and their families here in the District: from barriers to accessing social safety net programs, to poor housing conditions, to rising rents and gentrification that jeopardize their ability to remain in their homes and communities. This need not be the case. The District is in a position to ensure that residents of all backgrounds and socio-economic circumstances are welcome and can thrive. Unfortunately, taken as a whole, the Mayor's proposed FY20 budget does a poor job of positioning the District to make this aspiration a reality.

As a member of the Fair Budget Coalition, Legal Aid supports the Fair Budget platform for FY20.² If funded in full, the platform would protect the District's most vulnerable residents

¹ 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 87 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, immigration, and consumer protection. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

² The Fair Budget Coalition's FY20 Budget Platform is available at: <http://fairbudget.org/fy20.html>

across a number of areas of daily life. However, our testimony today will focus on four key areas in which the Mayor's proposed budget falls short of expectations:

1. The proposed budget fails to fund legislative reforms to the D.C. Health Care Safety Net Alliance (Alliance) program, jeopardizing access to health care for members of the District's immigrant communities and making it more difficult for District residents to obtain and keep a range of public benefits at Department of Human Services (DHS) service centers.
2. The proposed budget reduces the funding level for the Emergency Rental Assistance Program (ERAP), a program that successfully keeps families at risk of homelessness in their homes, but has been consistently underfunded. If the Council does not act, ERAP providers will likely continue to run out of money partway through the year, making it more difficult for families facing eviction to access help.
3. The proposed budget allocates no new funds to addressing unsafe and unhealthy living conditions in public housing and make needed repairs, leaving public housing residents to continue living in deplorable conditions, with no end in sight.
4. The proposed budget under-invests in affordable housing. There are no new tenant-based Local Rent Supplement (LRSP) funds to pull households off of the waitlist for housing vouchers, and the Mayor's investment in the Housing Production Trust Fund (HPTF) does not keep up with rising costs or position the Trust Fund to produce enough deeply affordable housing to stop the displacement of our lowest-income neighbors.

We urge the Council to correct these failures. Making these targeted investments will better enable struggling District residents to access help when they need it and, ultimately, help stem the tide of displacement that is pushing out the District's most vulnerable residents.

The Proposed Budget Fails to Fund Changes to the Alliance

The Alliance is a publicly-funded health insurance program that provides coverage to low-income District residents who are not eligible for Medicaid. Medicaid's strict eligibility requirements regarding immigration status mean that the Alliance insures thousands of members of the District's immigrant communities. The Alliance was created so that District residents could access preventive and other health care services regardless of their immigration status. Unfortunately, the Alliance's re-certification policy, which requires all Alliance enrollees to renew their coverage every six months, in person, with DHS, makes it extremely difficult for enrollees to keep their coverage. The policy continues to cause enrollees to lose health coverage, and the access to health care services that comes with it, thus contravening the purpose of the program.

The difficulties that Alliance enrollees face in keeping their coverage are well-documented. Oversight data from the Department of Health Care Finance (DHCF) show that during the months of October 2017 through January 2019, each month, between about 44% and 66% of

Alliance enrollees who were due to recertify failed to complete the re-certification process.³ In the first four months of FY19 (October-January), there was not a single month in which even half of Alliance enrollees due to recertify successfully re-certified.⁴ This is not a new problem either. We have previously testified that in 2015, for example, between 56% and 71% failed to re-certify each month.⁵ Overall, in the years since the re-certification requirement was implemented, Alliance enrollment has declined significantly.⁶

In order to apply or recertify for Alliance benefits, low-income District residents must go to DHS's Economic Security Administration (ESA) service centers, which have been plagued by long lines and service delivery problems for years. The service centers have limited daily capacity, and when they reach that capacity, people who are waiting to be seen by DHS staff are turned away. Practically, this means that all District residents who want to be seen at the services centers – including Alliance enrollees who need to see a DHS employee to re-certify – must line up outside the service centers hours before they open to avoid being turned away. Legal Aid has been monitoring the length of lines and wait times at the service centers since 2014.⁷ Our most recent data, from October and November 2018, show that service center customers routinely line up outside of service centers around 4:00 to 4:30 AM, if not earlier, with lines of between 47 and 95 people outside the service centers before their doors opened. We have observed similar lines and wait times throughout the five years that we have been doing this monitoring. In light of these conditions at the service centers, it is unsurprising that substantial numbers of Alliance enrollees would struggle to stay enrolled.

In recent years, both DHS and the Council have attempted policy changes to ease the burdens of the six-month, in-person re-certification policy, including enacting a statutory waiver of the in

³ DHCF FY18-FY19 Performance Oversight Responses, Q49.

⁴ *Id.*

⁵ 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>

⁶ FY18-FY19 oversight data showed a FY19 YTD enrollment of 16,667 Alliance beneficiaries, as compared to 29,090 in FY12 when the re-certification policy was implemented. DHCF FY18-FY19 Performance Oversight Responses, Q36.

⁷ See, e.g., *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Health Care Finance* (Feb. 23, 2018); *Joint Testimony of Legal Aid Society of the District of Columbia and DC Fiscal Policy Institute for Public Oversight Hearing on the Performance of the Economic Security Administration of the Department of Human Services* (May 12, 2015), <https://www.legalaiddc.org/wp-content/uploads/2015/03/CSharon3.12.15.pdf>; Mezey, Sharon & Rivers, *Closing the Gap Between Policy and Reality: Preventing Wrongful Denials and Terminations of Public Benefits in the District of Columbia* (May 22, 2014), <https://www.legalaiddc.org/wp-content/uploads/2014/05/Closing-the-Gap-Final.pdf>.

person requirement for certain Alliance enrollees, staffing increases, and changes to service center hours. The agency has also implemented a Business Process Improvement plan designed to address service delivery problems. But the lines at service centers have persisted, creating problems for both Alliance enrollees (who continue to needlessly lose coverage) and District residents who use the service centers to deal with other public benefits.

The barriers to renewing Alliance coverage have also likely harmed the Alliance program itself. A recent report by the DC Fiscal Policy Institute argues that re-certification barriers have raised the program's per capita cost by contributing to interruptions in health care for enrollees and skewing the Alliance's risk pool towards those who, due to health problems and age, are more likely to go to extraordinary lengths to keep their health coverage.⁸

In 2017, the Council passed the DC Healthcare Alliance Re-Enrollment Reform Amendment Act, which would both replace the 6-month re-certification requirement with an annual re-certification schedule similar to Medicaid, and allow Alliance enrollees to renew their coverage at approved community health centers. Thus far, the Mayor has ignored this legislation, failing to fund it in either her FY19 or FY20 proposed budgets. The Council should fund this legislation in FY20.

The Alliance's onerous renewal requirement has been in place since FY12. It has caused serious harm to District residents and weakened a vital social safety net program. All efforts to mitigate its effects have, to date, failed to make a meaningful difference. And the failures to date give us little reason to believe that future pledges by DHS and DHCF to improve things will work either. The Council should act now, by funding the full cost of the DC Healthcare Alliance Re-Enrollment Reform Amendment Act -- backing up its unanimous vote for this legislation in 2017 by actually allowing it to go into effect.

The Proposed Budget Continues the Underfunding of ERAP

The proposed budget lowers the overall funding level of ERAP by more than \$600,000,⁹ as the Mayor allowed one-time funding for the program that the Council identified last year (in order to prevent an FY19 budget cut) to expire. In spite of its effectiveness in keeping families facing eviction in their homes and out of our homeless services system, ERAP funding has been a

⁸ DC Fiscal Policy Institute, "No Way to Run a Healthcare Program: DC's Access Barriers for Immigrants Contribute to Poor Health Outcomes and Higher Costs" (Mar. 17, 2019), available at: https://www.dcfpi.org/all/no-way-to-run-a-healthcare-program-dcs-access-barriers-for-immigrants-contribute-to-poor-outcomes-and-higher-costs/?utm_source=DCFPI+Communication+List&utm_campaign=82953966a4-EMAIL_CAMPAIGN_2019_03_18_02_06&utm_medium=email&utm_term=0_f6ae988a93-82953966a4-93496305.

⁹ FY 2020 Proposed Budget and Financial Plan, Vol. 4 Agency Budget Chapters – Part III, E-8 (April 9, 2019), available at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DC_OCFO_Budget_Vol_4.pdf

popular target for cuts in recent years – it was cut by \$2 million in FY18, with a smaller cut in FY17.¹⁰ These reductions have been made in the face of rising rents and a limited stock of deeply affordable housing, which have left 27,000 District households “severely rent-burdened”¹¹ and more vulnerable to financial emergencies.

The chronic underfunding of ERAP has had damaging effects on District residents in need of assistance. Over the last few years, it has been routine for ERAP providers to run out of money before the end of the fiscal year – in FY18, three of the six providers did so.¹² This makes ease of accessing ERAP dependent, at least in part, on whether a family experiences an emergency early enough in the year for ERAP funding to be widely available. And even when funds are technically available, the underfunding of ERAP has another troubling effect. As we discuss in both our DHS oversight and budget testimony, when ERAP funds begin to run low, providers prioritize applicants with judgments and live eviction writs.¹³ This incentivizes tenants to confess judgment and accelerate the eviction process with the hope of being found eligible for assistance at that point. If tenants do not subsequently receive assistance from the program, they are left further along in the eviction process than they might otherwise be – and more vulnerable to quickly losing their housing. Even tenants who do receive assistance do so at the price of having a judgment against them in their rental histories, which will make it harder to rent housing in the future should they ever move. The point of ERAP is to help families before they fall into crisis. Current funding levels not only lead to failures to help families early, they in fact encourage families to race toward greater housing instability in hopes of getting the help they need.

In order to justify its cuts to ERAP, the Bowser Administration has argued that it is ramping up its Homeless Prevention Program (HPP), which is also operated by DHS. However, as we noted at DHS’s budget hearing, it appears that HPP serves a different need and population than

¹⁰ See, DC Fiscal Policy Institute, “What’s in the Fiscal Year 2018 Budget for Homeless Services?” (July 27, 2017), available at: <https://www.dcfpi.org/wp-content/uploads/2017/08/Homeless-Services-Toolkit-FY-2018-Approved.pdf>; DC Fiscal Policy Institute, “What’s in the Fiscal Year 2017 Budget for Homeless Services?” (July 5, 2016), available at: <https://www.dcfpi.org/wp-content/uploads/2016/01/DCFPI-Homeless-Services-Toolkit.pdf>

¹¹ DC Fiscal Policy Institute, “Building the Foundation: A Blueprint for Creating Affordable Housing for DC’s Lowest-Income Residents,” (April 4, 2018), available at: <https://www.dcfpi.org/all/building-the-foundation-a-blueprint-for-creating-affordable-housing-for-dcs-lowest-income-residents/>

¹² DHS FY18-FY19 Performance Oversight Responses, Q87.

¹³ Testimony of Samantha Koshgarian, Staff Attorney, Legal Aid Society of the District of Columbia, before the DC Council Committee on Human Services, April 10, 2019, pp. 2-3, available at: <https://www.legalaiddc.org/wp-content/uploads/2019/04/Legal-Aid-FY20-DHS-Budget-Testimony-ERAP-FINAL.pdf>

ERAP.¹⁴ That program serves families who are much closer to the point of crisis – having less than 30 days of safe housing – and offers services (like case management, classes in budgeting skills, or connections to outside programming) that are not necessary for tenants who can otherwise pay their rent but have simply fallen behind due to an emergency. ERAP and HPP are not interchangeable. Cutting one to fund the other just means that more families will have to slip closer to the point of homelessness to get help that could easily have been provided further upstream.

The Council should not accept continued cuts to ERAP. Legal Aid urges the Council to fund the program at a level that ensures that any District resident who needs and qualifies for assistance can access it – year-round and without bureaucratic barriers, damaging prioritizations, or unnecessary restrictions. We support the Fair Budget Coalition recommendation of \$12 million for eviction prevention through ERAP.

The Proposed Budget Does Not Address Unacceptable Living Conditions in Public Housing

This year, the Housing Authority acknowledged what we and other legal services organizations have known for a long time: that the District’s public housing stock is in deplorable condition, including deeply unsafe living conditions for children and families. Unfortunately, this acknowledgement came in the context of another announcement: that the DCHA would be coming up with a plan to “re-position” at least 2,500 public housing units that is has deemed to be in “extremely critical” condition.¹⁵ We know that any “re-positioning” plan that the Housing Authority comes up with will very likely include converting traditional public housing to site-based Section 8 housing using the Rental Assistance Demonstration (RAD) program and the demolition/disposition process.¹⁶ As Legal Aid testified at DCHA’s oversight hearing,¹⁷ we have serious concerns with this plan, and any similar plan that would involve DCHA ceding day-to-day control of its properties to a private entity. These types of public housing conversions, which are not new, often do not solve the housing conditions issues, and lead to community displacement, mismanagement, and loss of tenants’ rights.¹⁸

¹⁴ *Id.* at p. 3.

¹⁵ See Resolution 19-01, To Adopt a Framework for the Stabilization and Repositioning DCHA’s Portfolio of Properties, *available here* <http://www.dchousing.org/docs/git3vcz5221.pdf>

¹⁶ *Id.*

¹⁷ Testimony of Amanda Korber, Senior Staff Attorney, Legal Aid Society of the District of Columbia, before the DC Council Community on Housing and Neighborhood Revitalization, February 22, 2019, pp. 2-3, *available at*: <https://www.legalaiddc.org/wp-content/uploads/2019/02/Legal-Aid-FY18-19-DCHA-Oversight-Testimony-FINAL.pdf>

¹⁸ *Id.*

We are disappointed that – in spite of DCHA’s re-positioning announcement and continuing press coverage of families’ struggles in deteriorating public housing¹⁹ – the Mayor’s proposed budget does not allocate FY20 funds toward making repairs.²⁰ A local investment in public housing repairs is necessary in order to prevent – or at least limit – privatization. We urge the Council to work with DHCA to determine how much money is needed to complete necessary repairs while preventing the privatization of a substantial portion of the District’s public housing stock. The Council should then develop a funding plan built around recurring funding, to ensure the reliability of the funding stream. While we understand that DCHA may believe that it has no choice – particularly given that the Federal Government’s underinvestment in public housing is likely to continue – the Council does have the ability to step in and provide resources that are necessary to ensure that our public housing is safe for families, while keeping as much as possible of it public.

The Council should accompany any funding provided to DCHA for purposes of public housing rehabilitation with requirements in the Budget Support Act that ensure that:

1. Tenants’ rights at redeveloped properties are protected;
2. Tenants’ are not displaced from redeveloped properties;
3. DCHA rebuilds every unit of public housing it demolishes on the original footprint; and
4. DCHA retains management and control of its properties after redevelopment.

The Proposed Budget Underinvests In Affordable Housing

The Mayor’s failure to invest in public housing repairs is accompanied by an insufficient investment in affordable housing. This is particularly alarming given that, as we noted at DCHA and the Housing Production Trust Fund’s respective budget hearings, the District’s housing market has become deeply inhospitable to low-income District residents.

For families attempting to access LRSP vouchers, the situation is nearly hopeless: There are currently around 40,054 families on DCHA’s waiting list for tenant-based vouchers, and the waiting list has been closed since 2013.²¹ This means that no new families can apply for DCHA’s subsidized housing programs, and that families who have already applied are waiting decades for affordable housing -- even families who are homeless.

¹⁹ Morgan Baskin “As D.C. Weighs How to Fix Its Public Housing, Families Keep Getting Sicker,” Washington City Paper (March 20, 2019), available at: <https://www.washingtoncitypaper.com/news/housing-complex/article/21060618/as-dc-weighs-how-to-fix-its-public-housing-families-keep-getting-sicker>

²⁰ DC Fiscal Policy Institute, “What’s in the Proposed FY 2020 Budget for Affordable Housing?” (April 4, 2019), available at: <https://www.dcfpi.org/all/whats-in-the-proposed-fy-2020-budget-for-affordable-housing/>

²¹ DCHA FY18-FY19 Oversight Responses, Q16.

Meanwhile, on the private rental market, where average rents remain high, families with low incomes are suffering. Nearly two-thirds of extremely low-income households (households making less than 30 percent AMI) in the District pay half or more of their monthly income towards rent, a threshold that HUD classifies as “severely housing cost burdened.”²² In fact, nearly half of these families pay 80 percent or more of their monthly income towards rent.²³

The combination of a lack of availability of vouchers and heavy rent burdens for families renting without assistance makes it extremely difficult for families with low incomes to remain in the District. This is what is likely driving the tide of displacement that a recent study shows pushed out more than 20,000 of the District’s African-American residents between 2000 and 2013 and has made the District home to the greatest “intensity of gentrification” of any city in the country.²⁴ And, even for families who remain, paying such large portions of their incomes toward rising rents leaves them vulnerable. Severely rent-burdened households are at higher risk for food insecurity, employment instability, and lack of proper medical care.²⁵ These families also are far more likely to face eviction and, ultimately, possible homelessness. Eviction not only results in the loss of a family’s home; it can have devastating, long-term negative effects on physical and mental health, employment, and school performance.²⁶

Unfortunately, the Mayor’s proposed affordable housing investments do not position the District to respond forcefully to these conditions. The proposed budget allocates no new funds to pulling families off of the DCHA waiting list.²⁷ The Mayor did propose a substantial increase in the Housing Production Trust Fund allocation, from \$100 million to \$130 million. However, as a recent report from DCFPI points out, this investment is not sufficient to keep up with rising costs for producing affordable housing.²⁸ Just to generate the same housing as in 2015, the 2020

²² D.C. Fiscal Policy Institute, *A Broken Foundation: Affordable Housing Crisis Threatens DC’s Lowest Income Residents* 3 (Dec. 8, 2016).

²³ *Id.*

²⁴ National Community Reinvestment Coalition, *Shifting Neighborhoods; Gentrifications and cultural displacement in American cities* (March 19, 2019).

²⁵ *See id.* at 1-2.

²⁶ *See, e.g.*, Matthew Desmond, *Evicted: Poverty and Profit in the American City* 296, 298, 299 (2016); Matthew Desmond and Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, 63 Soc. Prob. 46, 59 (2016); Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 Am. J. Soc. 88, 89, 118 (2012).

²⁷ *See, supra*, note 20

²⁸ DC Fiscal Policy Institute, “DC Needs to Double Down on the Housing Production Trust Fund” (March 11, 2019), available at: <https://www.dcfpi.org/all/dc-needs-to-double-down-on-the-housing-production-trust-fund/>

HPTF would need \$150 million.²⁹ And beyond these rising costs, meeting the full need for affordable housing production requires a much more substantial investment.

Legal Aid supports the recommendations of the Fair Budget Coalition and DC Fiscal Policy Institute, both of whom have recommended doubling the District's Trust Fund investment to \$200 million in FY20. Additionally, we support the Fair Budget Coalition's recommendation that \$140 million be specifically targeted to rental units affordable to extremely low-income households, and that the Council allocate sufficient operating funds to ensure that housing built with Trust Fund dollars is used to house extremely low-income households.

Conclusion

As the Council considers the Mayor's proposed budget, Legal Aid urges it to maintain a clear focus on ensuring that the District is a place where individuals and families with low incomes can afford to live, work, and build their lives. We urge the Council to fund the Fair Budget Coalition's priorities, and to give special attention to the areas highlighted in our testimony today: fixing the Alliance, appropriately funding ERAP, funding public housing repairs, and making investments in affordable housing. We look forward to working with the Council in the coming weeks to achieve these goals.

²⁹ *Id.*