Legal Aid Society
OF THE DISTRICT OF COLUMBIA
MAKING JUSTICE REAL

Testimony of Jennifer Mezey
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Before the Committee on Health
Council of the District of Columbia

Public Hearing Regarding:

Bill 23-0362
"Maternal Health Care Improvement and Expansion Act of 2019"

December 18, 2019

The Legal Aid Society of the District of Columbia[1] supports Bill 23-0362, the Maternal Health Care Improvement and Expansion Act of 2019. This legislation takes a comprehensive approach to tackling the high rates of maternal mortality in the District – including significantly higher rates of maternal mortality among black women – and represents an important step forward. However, we urge the Committee to amend the bill to ensure that its expansion of Medicaid eligibility for post-partum women is fully mirrored by an expansion in eligibility for post-partum women who receive benefits through the D.C. Health Care Alliance. Further, if the District is truly going to address the racial disparities we currently see and reduce maternal mortality across the board, the Council and the Bowser Administration must both commit to eliminating the bureaucratic and administrative barriers that prevent mothers and expecting mothers from accessing the health and safety net services they need.

[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. We also 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, and our blog, www.MakingJusticeReal.org

The Bill Takes an Important Step Forward in Addressing Factors that Contribute to Higher Maternal Mortality Rates Among Black Women

As this Committee knows, the national maternal mortality rate of 29.6 per 100,000 live births masks significant racial disparities.[2] While the rate for white women is 26.1, the rate for black women was 63.8.[3] These disparities are even starker in the District where three-quarters of the women who died as a result of childbirth between 2014 through 2016 were black.[4]

Obviously, addressing the high and racially disparate rates of maternal mortality in the District is an incredibly important undertaking, and Legal Aid applauds and supports the work of the community members, health providers and government employees and officials who are leading on this issue. We see this legislation as a helpful next step that builds on the establishment of the District's Maternal Mortality Review in getting at the underlying causes of maternal mortality in the District.[5]

In particular, the legislation's creation of a Center for Maternal Health and Wellness that will be accessible to families (by being near public transportation and having telehealth and online capacity) could help District residents access information about and get help coordinating the services that are available to them. We also support the legislation's attempt to address the role that systemic racism plays in the disparate health outcomes of black women by requiring implicit bias training for health professionals. As the American College of Obstetricians and Gynecologists concluded in 2017:

> The racial and ethnic disparities in women's health (including higher rates of preterm birth, maternal mortality, and breast, cervical, and endometrial cancer deaths among Black women) cannot be reversed without addressing racial bias, both implicit and explicit. We recognize that structural and institutional racism contribute to and exacerbate these biases, which further

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[2] United Health Foundation's America's Health Ranking, *Health of Women and Children Report:* 2019 (September 2019), at 49 (available at https://assets.americashealthrankings.org/app/uploads/health-of-women-and-children-2019.pdf).

[3] *See id.*

[4] *Committee on the Judiciary and Public Safety Committee Report on B22-0524, the Maternal Mortality Review Committee Establishment Act of 2018* (January 18, 2018) (Summary of testimony of Dr. Roger Mitchell, Chief Medical Examiner of the District of Columbia), at 9 (available at http://lims.dccouncil.us/Download/39027/B22-0524-CommitteeReport1.pdf).

[5] D.C. Law 22-292. *See also* Robin Russell, Carolyn Rodeheau and Patricia Quinn, *Human-Centered Solutions to Improve Reproductive and Maternal Health Outcomes in Washington, DC,* D.C. Primary Care Association (September 12, 2018), at 7 (available at http://www.dcpca.org/reports/human-centered-solutions-to-improve-reproductive-and-maternal-health-outcomes-in-washington-dc).

> marginalize women of color in the health care system. Without acknowledging the historical context from which these disparities grew and examining these disparities through a lens that takes into account race, gender, and class, an equitable health care system that serves all women cannot be realized.[6]

We also know that "maternal health disparity transcends economics and education—black women of any income or educational level are more likely to suffer negative birth outcomes than low-income white women."[7] However, as a legal services provider, Legal Aid's expertise and experience lies in our work to ensure access to health insurance and other essential public benefits for the District's low-income populations. Therefore, we are particularly interested in the proposed legislation's expansion of eligibility for Medicaid for one year post-partum and would encourage this Committee to consider further expansions in eligibility and access to insurance.

Medicaid Expansion Should be Fully Mirrored by an Expansion in Health Care Alliance Eligibility

We applaud this Committee for including a provision that would expand eligibility for Medicaid to women with incomes up to 319 percent of the poverty level (the income eligibility limit for pregnant women and children) for one-year post-partum to ensure continuity of coverage and access to expanded services such as home visits. We know that more than half of maternal deaths occur after childbirth, and therefore having continuous coverage for one year will help prevent the types of disruptions in care that can lead to greater health risks for new mothers.[8]

However, we question why Alliance beneficiaries would not receive the same expansion. Legal Aid's general position with regard to public health insurance in the District is that there is no public policy justification for (and thus there ought not be) coverage or renewal process distinctions between the Alliance and Medicaid programs. The only difference between a pregnant woman who receives Alliance and one who receives Medicaid is immigration status. The Council should expand access for all mothers who qualify for public health insurance, period. Especially in light of the barriers that pregnant and post-partum Alliance beneficiaries

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[6] American College of Obstetricians and Gynecologists, *ACOG Statement of Policy on Racial Bias* (February 2017), at 1-2 (available at https://www.acog.org/-/media/Statements-of-Policy/Public/StatementofPolicy93RacialBias2017-2.pdf?dmc=1&ts=20191204T1450273950).

[7] Robin Russell, Carolyn Rodeheau and Patricia Quinn, *Human-Centered Solutions to Improve Reproductive and Maternal Health Outcomes in Washington, DC,* D.C. Primary Care Association (September 12, 2018), at 6 (available at http://www.dcpca.org/reports/human-centered-solutions-to-improve-reproductive-and-maternal-health-outcomes-in-washington-dc).

[8] Alison Stuebe Jennifer E. Moore Pooja Mittal Lakshmi Reddy Lisa Kane Low Haywood Brown, *Extending Medicaid Coverage For Postpartum Moms,* Health Affairs Blog, (May 6, 2019) (available at https://www.healthaffairs.org/do/10.1377/hblog20190501.254675/full/).

face in obtaining and keeping insurance coverage (as described below), we urge the Committee to consider expansions in eligibility for this group of women as well.

The Council and the Mayor Must Reduce Administrative and Bureaucratic Barriers to Health Care for Mothers and Expecting Mothers

We would be remiss if we also did not remind this Committee that expanded eligibility for public health insurance and an expanded list of covered services do not necessarily result in expanded access to insurance or health care. As a legal services provider for applicants and recipients of public benefits, Legal Aid sees clients every day who have had (or are in danger of having) disruptions in health care due to administrative barriers in obtaining and keeping public health insurance and other public benefits. And we know that these disruptions can lead to poor health outcomes.[9] We know that this Committee is aware of the plight of these clients and has tried to address them by passing legislation designed to remove the current in-person application and six month recertification requirements for Alliance applicants and beneficiaries. We appreciate this Committee's work and have strongly supported that legislation.

As this Committee knows, although Medicaid beneficiaries can apply online, by fax or mail, or in person, those who do not have online access and are (justifiably) concerned about DHS's problems with tracking and processing mailed or faxed documents must wait on line at service centers to apply for or recertify their benefits.[10] Because Alliance beneficiaries must still apply for their benefits in person at an ESA service center and recertify those benefits every six months in person (regardless of whether or not they have just given birth), they have no option but to wait in line. In light of the problems at service centers that Legal Aid has long documented – which include long lines, capacity limitations, poor staff interactions, and failure to track and process documents in a timely fashion[11] – Alliance beneficiaries who must brave these lines every six months are at great risk of losing those benefits.[12]

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[9] District of Columbia Department of Health, *District of Columbia 2017 Health Systems Plan* (July 2017), at 61 (available at https://dchealth.dc.gov/sites/default/files/dc/sites/doh/publication/attachments/DC%20Health%20Systems%20Plan%202017_0.pdf) (listing administrative barriers related to insurance coverage as a "health system issue" negatively impacting "community health).

[10] *Testimony of Curt Campbell & Carolyn Rumer Staff Attorneys, Public Benefits Unit Legal Aid Society of the District of Columbia Before the Committee for Human Services Council of the District of Columbia Performance Oversight Hearing Regarding the Department of Human Services* (March 1, 2019) (available at https://www.legalaiddc.org/wp-content/uploads/2019/03/Legal-Aid-FY18-19-DHS-Oversight-Testimony-Public-Benefits-FINAL2.pdf).

[11] *See id.*

[12] *Testimony of Chelsea Sharon Senior Staff Attorney, Public Benefits Law Unit Legal Aid Society of the District of Columbia Before the Committee on Health Council of the District of Columbia Performance Oversight Hearing Regarding the Department of Health Care Finance*

Good health is dependent not only on the ability to receive health services, but on the ability to meet key day-to-day needs – such as food and nutrition needs – that are key determinants of health.[13] Therefore, to the extent that Medicaid and Alliance beneficiaries are also receiving SNAP (or Food Stamps) and TANF (Temporary Assistance for Needy Families) to support the nutritional and other needs of themselves and their children, the problems at service centers jeopardize the continuity of those benefits as well.

As the Council moves forward with this bill, we urge this Committee to continue its work with Committee on Human Services (whose current chair, Councilmember Nadeau, is a cosponsor of this legislation) to hold the Departments of Health Care Finance and Human Services accountable for improving their delivery of essential health and other public benefits to low-income District residents. If the District cannot provide consistent, continuous health insurance coverage and other essential benefits to the pregnant women and mothers (as well as their children and partners) who depend on them for their well-being, it will be difficult to achieve this legislation's goal of lowering the District's maternal mortality rates and narrowing racial disparities.

Conclusion

We appreciate the opportunity to testify in support of this important legislation. We look forward to continuing to work with the Council to address the challenges that low-income mothers in the District face in maintaining their health and well-being.

(February 6, 2019), at 4 (available at https://www.legalaiddc.org/wp-content/uploads/2019/02/Legal-Aid-FY18-19-DCHF-Oversight-Testimony-Health-Care-Alliance-FINAL.pdf) (citing to data from the Department of Health Care Finance's FY 2018-FY 2019 Oversight Response Q 49 showing that in Fiscal Year 2018, 44 percent to 52 percent of Alliance beneficiaries up for recertification each month did not complete the recertification process).

[13] *See* note 9 ("Perhaps even more influential is the impact that social determinants of health such as poverty, food access, poor/unsafe housing, transportation, crime and violence, and access to recreational assets have on communities' ability to maintain their health).