

**Testimony of  
Marcia Hollingsworth, Senior Staff Attorney  
&  
Carolyn Rumer, Senior Staff Attorney  
Public Benefits Law 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, 2021**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits the following testimony regarding the performance of the Department of Human Services (DHS), and in particular, DHS service delivery, and the DC Healthcare Alliance, TANF, and Interim Disability Assistance (IDA) programs. Legal Aid wants to affirm and express appreciation for the time, efforts, and resources that DHS has committed since March 2020 to ensure that District residents have access to critical benefits without having to undertake unnecessary potential exposure to health risks during the public health emergency (PHE).

While DHS deserves credit and appreciation for the significant work it has undertaken in response to the COVID-19 pandemic and the increase in benefits applications that resulted during the PHE, for many members of our client community, significant obstacles to accessing and maintaining participation in social safety net programs remain. Further, having implemented emergency measures, it is important the DHS now begins sharing with the public its plans for permanent changes to ensure that we do not return to a safety net system in which barriers prevent struggling District residents from getting the assistance they need. These barriers should never have existed in the first place, and as we transition from crisis to recovery, many Washingtonians will continue to need access to the programs DHS administers.

---

<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.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 89 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. 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 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](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

Our testimony today discusses some of the obstacles that applicants and recipients continue to face related to Call Center and ESA Service Center service delivery, including addressing and resolving benefit issues and completing recertifications, and communicating with the agency through the Division of Program Operations and the Office of Administrative Hearings (OAH) Fair Hearing Process. We also follow up on the need for increased communication between DHS and the Office of the Attorney General's Child Support Services Division (CSSD) to improve implementation of child support cooperation and TANF sanctions and discuss problems with administration of the IDA and Alliance programs.

### **DHS Has Taken a Number of Positive Steps in Response to the Public Health Emergency**

Since the Mayor first declared the public health emergency, DHS has worked quickly to take actions protecting public benefits applicants, recipients, and DHS employees, including increasing options to safely apply for benefits. DHS has created two methods—an online portal and the DC Access Phone Application—for customers to apply for benefits electronically, receive electronic copies of notices, upload documents, and verify their benefit amounts. DHS has shifted Service Center procedures solely to pick up and drop off for documents and encouraged customers to utilize the electronic systems and the Call Center in order to avoid potential health risks. Electronic access has been vital in ensuring that District residents can apply for benefits right away and upload supporting documentation to help DHS process applications as quickly as possible and ensure that individuals and families receive benefits more quickly than with the physical Combined Application and document drop-off system.

In addition to creating electronic applications and expanding service delivery options, we appreciate the work DHS has undertaken with the USDA Food and Nutrition Services to ensure that District Supplemental Nutrition Assistance Program (SNAP) recipients have Emergency SNAP, meaning they receive the maximum amount for their household size, through June 2021, and Pandemic-EBT for families with children who receive free- or reduced-school meals. Suspension of the recertification and interview requirements for SNAP, TANF, and Medicaid and Alliance benefits has played an important part in ensuring that recipients do not lose access to critical benefits and health insurance during the PHE.

DHS deserves credit for the steps it has taken to create online service delivery options, suspend recertifications and interviews, and expand SNAP benefits. But we hope that DHS will continue to maintain electronic applications, verifications, and copies of notices even when the PHE subsides and that DHS is able to safely resume in-person services through the Service Centers. Legal Aid encourages the Committee to continue to oversee DHS's work to ensure that these systems are implemented efficiently and with accessibility for people with disabilities and for individuals who speak English as a second language.

### **DHS Continues to Experience Service Delivery Problems Related to Residents Accessing Benefits and Resolving Benefit Issues, the Recertification Process, and Terminating Benefits Without Proper Notice or in Error**

In spite of the above-detailed efforts, long-standing service delivery problems continue to prevent individuals and families from timely accessing and maintaining critical safety net benefits when they need them. Therefore, vulnerable District residents continue to lose these benefits for unacceptable periods of time, and even when problems are ultimately resolved, they must deal with the lingering fear and anxiety about the stability of their income source.

### ESA Service Centers

Due to the PHE, all Service Centers have been closed for in-person services, with the exception of the H Street, Taylor Street, and Fort Davis Service Centers that are open for picking up and dropping off benefits applications and documents. It is crucial that DHS takes steps to ensure that, when Service Centers reopen, we do not see the same long-standing wait time and capacity issues that have plagued DHS and which Legal Aid has testified on in past years.<sup>2</sup>

In January 2020, just two months before Service Centers closed due to the PHE, customers routinely arrived to Service Centers as early as 3:00 to 4:30 a.m., with lines numbering between 58 and 107 people before doors opened (at around 7:30 a.m.).<sup>3</sup> Prior DHS Performance Oversight Responses also acknowledge average wait times of 1 hour and 55 minutes across all Service Centers for FY20 through November 2019.<sup>4</sup> However, DHS only counts wait times beginning from when the customer passes through security,<sup>5</sup> and thus does not account for customer wait times before the Service Center doors open.

To avoid returning to the long lines and challenges related to in-person service delivery when the PHE subsides, we hope DHS will continue to prioritize service delivery and address critical

---

<sup>2</sup> *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (Jan. 29, 2020) (Testimony of Carolyn Rumer), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-ESA-FINAL.pdf>; *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (Jan. 29, 2020) (Testimony of Chelsea Sharon), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-Alliance-FINAL.pdf>; *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Health Care Finance* (Feb. 6, 2019), <https://www.legalaiddc.org/wp-content/uploads/2019/02/Legal-Aid-FY18-19-DCHF-Oversight-Testimony-Health-Care-Alliance-FINAL.pdf>.

<sup>3</sup> *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (Jan. 29, 2020) (Testimony of Chelsea Sharon), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-Alliance-FINAL.pdf>.

<sup>4</sup> See DHS FY19-FY20 Performance Oversight Responses, Q136(a).

<sup>5</sup> *Id.* (noting that the “total average lobby wait time” measures wait time beginning from when the customer passes through security); see also DCHF FY8-FY19 Oversight Responses, Q49; DHS FY18-FY19 Performance Oversight Responses, Q110(b).

service delivery deficits, such as reducing Service Center wait times and accurately tracking capacity and ensuring that customers are not turned away because of capacity limitations.<sup>6</sup> The steps the agency has taken to continue to meet customers' needs during the PHE, including adding Call Center staffing and creating mobile and online platforms, will continue to be vital when in-person service delivery resumes. However, customers routinely experiencing challenges with successfully recertifying for benefits or providing verification documents to DHS, as many customers have benefits terminated or reduced even after they have turned in recertification or verification documents, sometimes multiple times.<sup>7</sup> Customers who use the Service Center drop boxes or the recently launched mobile and online platforms to submit verification documents still face challenges as customers do not receive receipts or confirmations when using the drop boxes, and often must resubmit documentation. Legal Aid helped one client apply for SNAP online and uploaded proof of the client's rent expense. Despite receiving confirmation of the submission, DHS later reported that it did not receive proof of rent and did not apply the rent expense in calculating the client's benefit amount—meaning the client would only receive the minimum \$30/month.

### DHS Call Center

Since Service Centers closed for in-person services (apart from document pick up and drop off) due to the PHE, the Call Center has served as the only option for customers to speak with a representative about their benefits. The Call Center should be a primary option for customers—especially many without computer access—to access information about their benefits, report information to DHS, and complete recertifications. However, attempting to use the Call Center has often proved unsuccessful.

Prior to the PHE, customers regularly reported waiting over an hour to speak with a representative. Indeed, DHS acknowledged that for much of FY19, due to high staff turnover, the Call Center was only staffed at 50%.<sup>8</sup> And when customers were able to reach a representative, customers reported that representatives often could not offer substantive assistance or resolve their problem.

During the PHE and with Service Center closures, DHS has made efforts to adjust and increase Call Center staffing to try to meet the extremely high call demand and customer needs. DHS reported fielding 1,500 to 2,000 calls a day in May 2020. However, even with increased staffing, the Call Center often remains an inadequate option for addressing households' needs and call wait times remain overwhelmingly high. DHS reported to advocates call times of up to seventy minutes in July 2020 and call times averaging fifty-five minutes in October 2020. One Legal Aid

---

<sup>6</sup> See DHS FY19-FY20 Performance Oversight Responses, Q136(b)(iv).

<sup>7</sup> *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (Jan. 29, 2020), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-ESA-FINAL.pdf>.

<sup>8</sup> DHS FY-19-FY20 Performance Oversight Responses, Q31.

client reported waiting on hold for three hours in September 2020. They ultimately had to end the call before speaking to a representative because they could not wait on hold any longer. Another client reported waiting over an hour to speak with a representative in the last week of January 2021.

Customers who can reach a DHS Call Center representative after waiting on hold, still may not be able to address or resolve a benefit issue, or complete outstanding recertification or verification requests. Customers cannot apply for benefits through the Call Center, so those who are unable pick up the combined application from an open Service Center or who have no or limited internet or smart phone access to apply for benefits, must wait to speak with a representative to request that an application be mailed to them. Representatives have also generally been unable to respond to inquiries about the status of a customer's pending benefit application or may tell the customer that DHS will email or call them back with information and will "open a ticket" to resolve technical issues on a case. However, the customer will often never hear back from DHS. Further, when a customer asks about their application status, they are often told that the agency needs verification or documentation to process their application, even when the customer already provided this to DHS. For example:

*In January 2021, Legal Aid client, Monica Powell<sup>9</sup> added her newborn baby to her SNAP and TANF case through the DC Access Phone App. When she contacted the Call Center to make sure DHS updated her case, a representative told her that there was a problem with her SNAP case. The representative also said that they would put a ticket on it for a supervisor to review, a supervisor would resolve her case within 48-72 hours, and someone would call her back.*

*DHS never contacted Ms. Powell, and despite ten calls to the Call Center to find out about her case, every representative she spoke with just said that there was an issue with her case, a ticket would be opened, and a supervisor would resolve her issue. When Ms. Powell asked to speak to a supervisor, she was told that a supervisor would call her back, but no one called Ms. Powell back.*

*Legal Aid filed an emergency fair hearing request at OAH – which should have prevented DHS from stopping her benefits – and emailed DPO multiple times to ensure that the family's SNAP would not terminate. However, Ms. Powell and her family did not receive February SNAP, or the additional TANF for the baby on the first of the month – when she normally received benefits. Although DHS paid Ms. Powell the SNAP and TANF benefits the family was due on the day of the emergency hearing, it is likely the family would have been without benefits for a longer period of time if Legal Aid was not involved and had not filed an emergency fair hearing request at OAH.*

#### Benefit Terminations Without Proper Notice and Erroneous Notices

---

<sup>9</sup> Client names throughout this testimony have been changed for confidentiality purposes.

By law, DHS is required to issue legally sufficient notice to customers prior to taking adverse action on their benefits. Such notices must be sent at least fifteen days before the adverse action is to occur and that the notice state the facts and law that support the action and what the customer can do to continue benefits. Prior to the PHE, Legal Aid clients regularly reported that their benefits were stopped without receiving any notice from DHS or that they received confusing or inaccurate notices that did not explain why DHS was going to stop or change their benefit or how they could resolve the issue. While benefit terminations and reductions are supposed to have been suspended during the PHE, we are aware of many customers whose benefits were stopped without receiving any notice from DHS and others who received inaccurate notices informing the customers that their benefits might stop.

Unfortunately, existing public benefits recipients have had their benefits erroneously terminated despite the PHE. For example, Legal Aid contacted DHS to ask why a customer, who did not receive any notices about their benefits, did not receive SNAP for January 2021. DHS responded that it had closed the customer's SNAP case in error, without providing any additional information. Fortunately, DHS reopened the SNAP case and issued back benefits. However, it is likely that DHS would not have realized its error if Legal Aid had not contacted the agency, and the customer likely would have been without benefits for a much longer period of time before being able to address the issue on their own. Legal Aid encourages DHS to undertake a review of its notices to ensure that they are legally sufficient and clearly describe what action or decision the agency is taking and why, within what time frame, and what the customer can do to prevent the action from taking place or to legally challenge the action, and take any necessary steps to prevent erroneous benefit terminations.

As Legal Aid has testified for multiple years, the agency's transition to the D.C. Access (DCAS) computer system in October 2016 resulted in widespread technological problems, including mailing erroneous notices to many customers; a 2019 upgrade to DCAS did not solve the issues.<sup>10</sup> Unfortunately, these problems have not subsided during the PHE. In the past few weeks, Legal Aid has learned of multiple customers who received notices that DHS determined they are not in compliance with the SNAP work requirement and that they must comply with the SNAP work requirements or be disqualified from receiving SNAP. The notice itself is confusing and contradictory as it has a footnote stating that the SNAP work requirement is "completely

---

<sup>10</sup> See *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (Jan. 29, 2020), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-ESA-FINAL.pdf>; see also *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (March 1, 2019), <https://www.legalaiddc.org/wp-content/uploads/2019/03/Legal-Aid-FY18-19-DHS-Oversight-Testimony-Public-Benefits-FINAL2.pdf>; see also *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (April 12, 2018), <https://dev.legalaiddc.org/wp-content/uploads/2018/04/Legal-Aid-Budget-Testimony-re-DHS-Public-Benefits-FINAL.pdf>; see also *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (March 15, 2017), <https://www.legalaiddc.org/wp-content/uploads/2017/03/CRumer.3.15.17.pdf>.

voluntary.” The District does not currently enforce SNAP work requirements and therefore it is not a basis for SNAP termination. While DPO confirmed that one such notice was “sent in error,” we are concerned that a significant number of SNAP recipients may have received this erroneous notice, leaving District residents concerned that their benefits will terminate. DHS should contact any affected households to confirm that their SNAP will not end and issue legally sufficient corrective notice as soon as possible.

In addition to notices that reference inaccurate requirements, DHS has continued to send customers notices with incorrect information regarding recertifications. One Alliance recipient who speaks Amharic, contacted Legal Aid last week after she received a notice in English that she had to recertify for Alliance by the end of February or her Alliance would end even though Alliance recertifications are extended 60 days past the end of the PHE under the emergency authority invoked by the mayor. Similarly, a Legal Aid client received a notice that their Medicaid had actually been terminated because they failed to recertify. DPO informed a Legal Aid attorney that the notice was sent in error and confirmed that Medicaid recertifications are still being automatically extended due to the PHE. The continued erroneous notices are extremely stressful to customers because it is time-consuming and difficult for them to get in touch with DHS. Many customers are not able to get this information without assistance from a legal or social services organization, which is particularly disturbing when DHS continues to struggle with erroneous notices going to wide swathes of customers.

### **On-going Inadequate Staffing of the Division of Program Operations E-mail System and Administrative Hearings Contribute to Delays in District Residents Accessing Safety Net Programs and Having Benefits Issues Resolved**

#### DPO Response Times Remain Delayed in Many Cases

Although advocates can use the Division of Program Operations email to follow up about individual cases and seek resolution for our clients, DPO’s response times remain delayed in many cases. Generally, DPO has responded more quickly to advocates since we testified last January.<sup>11</sup> Still, since the PHE, Legal Aid often has to send at least two emails to DPO about the same matter to receive a substantive response, and in many cases, DPO only provides a substantive response after Legal Aid has sent three emails on the same issue. Legal Aid has raised these DPO response delays with DHS pre-and during the PHE, and we appreciate that DHS has addressed the individual cases that we have identified with delays or no responses. DPO processes cases in the order in which the division receives them and is not able to prioritize urgent matters, leaving advocates without answers or requiring escalation to supervisor-level staff. However, when Legal Aid does not receive responses from DHS or updates on a case, we are often forced to file hearing requests at OAH to seek resolution through the fair hearing process, even though the issue could have been easily resolved through the DPO process, i.e., the exchange of a few e-mails. While the number of fair hearing requests Legal Aid filed due to

---

<sup>11</sup> *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (Jan. 29, 2020), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-ESA-FINAL.pdf>.

DPO's delay has decreased during the pandemic—when most Legal Aid clients have not faced imminent benefit termination or reduction—these delays still harm customers who may not be receiving the correct SNAP or TANF amount or who have their benefits erroneously terminated.

The Fair Hearing Process Remains Plagued by Long Wait Times and Lack of Communication from DHS

District residents file fair hearing requests at OAH to remedy a deprivation of critical safety net benefits, such as TANF, Medicaid, and SNAP. As raised in our FY19 and FY20 testimony, prior to the PHE and despite the urgency of public benefits cases, customers experienced backlog in the scheduling of these cases for an initial hearing with some not being held until five to six months after the hearing request.<sup>12</sup> While DHS should not be terminating or reducing households' TANF, SNAP, and Medicaid or Alliance benefits during the PHE, DHS has reported that SNAP recertifications will begin March 2021. We expect that an influx of customers will face termination or reduction when recertifications resume, and seek resolution through OAH when informal resolution options are unsuccessful. These anticipated fair hearing processing delays remain particularly troublesome when OAH is designed to be accessible for *pro se* litigants who are less likely to understand the procedural process and their rights.

We hope that DHS will take measures to handle public benefits cases at OAH more efficiently. Prior to the PHE and since 2019, DHS assigned different policy analysts to cover hearings on different, rather than have the same policy analyst work on one case. This often caused case resolution delays because the policy analyst was not familiar with the case or what occurred at the last status hearing.<sup>13</sup> There have also been instances of policy analysts not appearing at a scheduled hearing altogether. Since the PHE, the same policy analyst has generally been assigned to cases in which Legal Aid is involved, which has allowed for more efficient case resolution when the issue is less complex. Nevertheless, case resolution remains significantly delayed when DHS has a backlog of cases, and particularly when resolution necessitates that the policy analyst take positions on questions of law as this requires the policy analyst to consult with DHS's General Counsel Office (GC) before engaging in any negotiation or stating the agency's position. Because the GC is not directly involved in OAH cases, advocates must rely on the policy analysts to serve as intermediaries, and the policy analysts often express that they need to consult with the GC. However, when advocates reach out to the GC directly, they often do not get responses. For example, in one case involving a TANF sanction, it took the agency approximately seven months to state its position and, in this time, Legal Aid emailed the GC directly to request documents from the client's case file and request an opportunity to engage in negotiations to see if the case could be resolved informally, but the GC never responded.

---

<sup>12</sup> *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (Jan. 29, 2020), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-ESA-FINAL.pdf>.

<sup>13</sup> *Id.*



Additionally, our understanding is that DHS will only send three policy analysts to OAH for 20 hours a week, so the Administrative Law Judges (ALJs) at OAH do not have enough time for public benefits cases and are limited to specific days in which they can schedule public benefits cases. While Legal Aid remains sympathetic to the policy analysts' high caseloads and hopes that additional funding can be allocated for additional assistance with fair hearing representation, ultimately—as with the Service Centers and Call Center—the delays and disorganization at DHS hurt the public benefits recipients who cannot afford the erroneous loss, reduction of, or delay in expeditiously resolving issues concerning crucial safety net benefits.

**To Prevent Unnecessary Sanctions of Families Participating in TANF, DHS Must Increase Communication with CSSD to Improve Administration of the Child Support Cooperation Requirement and Good Cause Waiver**

Legal Aid supports the action taken by DHS and the Office of the Attorney General's Child Support Service Division to suspend the imposition of new child support sanctions during the PHE. However, as we testified for the past two years,<sup>14</sup> DHS and CSSD can do more to clarify procedures and effectively communicate with TANF parents around the child support cooperation requirement, sanctions for non-compliance with cooperation, and good cause waivers for compliance with cooperation. We urge the Committee to work with the DHS, the Committee on the Judiciary and Public Safety, and the OAG to address this problem and focus on improving procedures for communication between the agencies and clarifying the process for TANF recipients to ensure effective implementation and prevent a significant number of TANF households from receiving sanctions for non-compliance once the suspension is lifted.

Parents in households receiving TANF assign their right to receive child support to the District government while they are receiving TANF.<sup>15</sup> This means that TANF recipients must cooperate with the District in identifying, locating, and establishing child support orders against the non-custodial parents of their children.<sup>16</sup> If a TANF recipient does not cooperate with the government's efforts to pursue child support from the non-custodial parent, the customer is subject to a TANF sanction equaling a 25% reduction in the family's TANF grant.<sup>17</sup> There is a "good cause" exception to cooperating with the child support enforcement if cooperating with

---

<sup>14</sup> See *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (January 29, 2020), <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-ESA-FINAL.pdf> ; see also *Legal Aid Testimony Regarding Agency Performance Oversight for the Department of Human Services* (March 1, 2019), <https://www.legalaiddc.org/wp-content/uploads/2019/03/Legal-Aid-FY18-19-DHS-Oversight-Testimony-Public-Benefits-FINAL2.pdf>.

<sup>15</sup> D.C. CODE § 4-205.19(b).

<sup>16</sup> D.C. CODE § 4-217.08(a).

<sup>17</sup> 29 DCMR §§ 1715.2-.3.

the government, or seeking child support, may result in harm to the TANF recipient or the recipient's family.<sup>18</sup>

When individuals apply or recertify for TANF, they must complete a Combined Application,<sup>19</sup> which asks the person to write information about the non-custodial parent, including their last known address, whether paternity has been established, and the parent's last place of employment, for each child in the household. Prior to the PHE, DHS caseworkers were responsible for reviewing and having the customer sign a notice explaining the child support cooperation requirement and that individuals could apply for a good cause waiver from the cooperation requirement if they had experienced domestic violence or if pursuing child support would put themselves or their families at risk. Many consumers would provide information to DHS about the domestic violence they had experienced, including filling out statements describing what they had been through and detailing fears about pursuing child support.

Oftentimes, TANF recipients who have provided all of the information they have about the non-custodial parent or completed a statement about potential violence associated with child support believe that they have complied with the District's child support cooperation. However, this is only the first step in the process of cooperating with child support efforts or obtaining a good cause waiver. DHS then sends the case information about the non-custodial parent, and/or any related information related to a good cause request, to CSSD for follow up. CSSD is the District entity responsible for pursuing support orders against non-custodial parents of TANF recipients and making decisions about whether "good cause" exists for non-cooperation, both of which require further follow-up from custodial parents. If CSSD requests information or participation from a TANF recipient and does not receive a response, they notify DHS that the family should be sanctioned. DHS is then supposed to send a notice about the impending child support sanction before implementing the sanction, which reduces the family's benefits by 25%.

At the point that a TANF customer has a sanction imposed for non-compliance with child support cooperation, they should have received three notices: a notice from CSSD describing the opportunity to meet and explaining the potential consequences of failing to do so; a notice from CSSD explaining the basis for finding noncooperation; and, finally, a notice from DHS explaining that a sanction for non-cooperation will be imposed and detailing the steps the consumer can take to become compliant and the right to request a fair hearing. However, many consumers have their TANF sanctioned by 25% for non-compliance with child support cooperation without receiving proper notice. If DHS sanctions a TANF recipient who did not receive all notices or seeks more information, the burden lies on the recipient to work with both agencies to resolve the issue. First, the person generally contacts DHS to ask why their benefits were reduced. Second, they must work with CSSD to come into compliance with the child support cooperation and obtain proof of compliance. Third, CSSD is supposed to communicate to DHS that the person is now compliant so the TANF sanction can be lifted the following

---

<sup>18</sup> 29 DCMR § 1709.1(a).

<sup>19</sup> Available at [https://dhs.dc.gov/sites/default/files/dc/sites/dhs/publication/attachments/Combined\\_Application\\_December-2015\\_%28English\\_%202020.pdf](https://dhs.dc.gov/sites/default/files/dc/sites/dhs/publication/attachments/Combined_Application_December-2015_%28English_%202020.pdf).

month. However, many consumers receive information that they are responsible for providing DHS with proof of compliance. During the PHE, it has been difficult for consumers with TANF sanctions for child support non-compliance to come into compliance and lift the sanction because CSSD is closed for in-person services.

Additionally, delays between communication between CSSD and DHS have negative impacts on TANF sanctions. For example, on the DHS side, delays in adding household members to a TANF household when a second parent returns to the home and the failure to update CSSD in a timely manner result in CSSD filing child support actions when there's no legal basis for support. On the CSSD side, the agency often fails to timely update DHS when a person has become compliant, leading to additional months that the family's TANF grant is improperly sanctioned by 25%.

The failure of DHS and CSSD to adequately communicate, with either the TANF family or each other, places an enormous burden on TANF recipients. We ask the Committee to work with DHS, the Committee on the Judiciary and Public Safety, and CSSD to answer questions and take additional steps to ensure efficient communication and fair administration of child support cooperation requirement, including:

1. DHS verifying that CSSD sent two notices—one about the cooperation opportunity and the second about a finding of non-cooperation—to the most recent address on file in DCAS, the DHS computer system, before DHS sends notice regarding a TANF sanction to a consumer;
2. Establishing a contact person at CSSD for DHS to facilitate communication and information gathering for TANF customers who have a sanction, are at risk of a sanction, or seek a good cause waiver;
3. clarifying the technological interface and access that CSSD has to DHS's system, DCAS (e.g., does CSSD receive updated information about a TANF parent's contact information when the parent reports it to DHS?);
4. ensuring that DHS and CSSD work together to provide clear, updated information to TANF recipients on how to get in touch with CSSD, including during the PHE; and
5. clarifying expectations around prompt communications between DHS and CSSD regarding TANF recipients who express interest in a good cause waiver, recipients with a TANF sanction that come into compliance; and updates from TANF recipients, like household composition, that impact a potential paternity and/or support case.

### **DHS Should Take Steps to Improve Administration of the Interim Disability Assistance Program**

IDA is a District-funded program available for child-free individuals with disabilities who are unable to work and have pending Supplemental Security Income (SSI) applications or appeals.<sup>20</sup> If an IDA recipient is approved for SSI, DHS is reimbursed for any IDA benefits paid to the person for months in which they ultimately receive retroactive SSI benefits. If a person's IDA

---

<sup>20</sup> D.C. CODE § 4-204.07.

application is approved but funds are not available, they are placed on a waitlist<sup>21</sup>. IDA is a critical benefit because, by definition, it is available for individuals who are not TANF-eligible and are unable to work due to their health conditions. Many consumers remain on the waitlist for six months or more while waiting for benefits. As an initial matter, Legal Aid encourages the Committee to work with DHS to increase funding for the IDA program, particularly as the demand for IDA has increased during the PHE.

While IDA plays a critical role in offering cash assistance for SSI applicants who wait many years for determinations on their applications and/or appeals, DHS should take steps to ensure that IDA recipients are not wrongfully terminated and have the opportunity to appeal any denials from the Social Security Administration (SSA). For example, DHS has access to an electronic interface, called BENDEX, with SSA that allows the agency to obtain updates about SSA's determinations. However, at times DHS misinterprets the information available from SSA to incorrectly determine that a person is no longer eligible. Additionally, DHS frequently issues IDA termination notices after an SSI denial that require proof of an SSI appeal before the 60 days allowed under Social Security law. This can be particularly difficult when individuals can only appeal an SSI denial online or by telephone due to the pandemic. Many IDA recipients do not have computer access to appeal online and it is very difficult to get through to the SSA national hotline to obtain an appointment to appeal, which may not be registered in SSA's system properly.

The actions by DHS to swiftly terminate IDA benefits leave individuals in difficult situations and often cuts of their benefits before they have a chance to appeal an SSI denial. For example:

*Chris McCollum, a Legal Aid client who receives IDA, had his SSI appeal denied on August 27, 2020 by a Social Security Administrative Law Judge Hearing. Mr. McCollum is a 25 year-old who suffers from PTSD and other mental health diagnoses and physical limitations related to having his foot amputated after an accident when he was eight years old. Mr. McCollum began receiving IDA after applying for SSI in 2015 and has been involved in the appeals process since that time. After an SSI denial by an Administrative Law Judge, the claimant has sixty (60) days to file an appeal requesting review by the Social Security Appeals Council.*

*Although IDA is available for SSI claimants until they have exhausted their appeal at the Appeals Council and the claimant has a right "to file a timely appeal of that [Administrative Law Judge] decision,"<sup>22</sup>DHS mailed Mr. McCollum a notice dated September 8, 2020 stating that "your IDA benefits will terminate effective 9/30/20. The reason for this action is that you have exhausted all levels of Appeals to receive IDA benefits." The notice incorrectly stated that*

---

<sup>21</sup> 29 DCMR § 6600.2.

<sup>22</sup> 29 DCMR § 6604.2.

*Mr. McCollum's SSI claim was denied at the Appeals Council, and not the Administrative Law Judge, level on August 27, 2020.*

*Legal Aid filed a Request for an Emergency Hearing at the D.C. Office of Administrative Hearings on Mr. McCollum's behalf after filing an appeal with the Social Security Appeals Council, but DHS did not reinstate his IDA or load his IDA benefits for October until October 15, 2020 after a hearing.*

Mr. McCollum's case is not unusual in that DHS gave him 34 days from the date of his SSI denial before his IDA benefits terminated, when he had 60 days under Social Security rules to file an appeal. DHS should ensure that agency policies for IDA, which allow recipients to file timely appeals of SSI determinations, align with Social Security rules to ensure that individuals are not wrongfully terminated before they have an opportunity to complete an appeal with SSI within 60 days. Mr. McCollum's case is unusual in that many IDA recipients don't have access to legal services or may think that their only option would be to re-apply for IDA benefits. In that situation, if the IDA application was approved, the individual would have to wait multiple months on a wait list to have access to benefits. The Committee should work with the Council and the Mayor's office to increase funding in the budget for the IDA program, a critical safety net program that has seen increased demand during the Public Health Emergency.

### **The Mayor Must Fund Changes to the Health Care Alliance's Renewal Process and Permanently End the Six-Month, In-Person Recertification Requirement**

As the Council knows, the Alliance program serves a vital purpose: providing health insurance to low-income District residents who are not eligible for Medicaid. However, the program's onerous pre-PHE recertification requirements required that beneficiaries recertify their eligibility in person every six months by waiting in line at crowded Service Centers to conduct face-to-face interviews—meant that, month after month, individuals from some of the District's most marginalized communities needlessly lost their health coverage. Legal Aid's client community includes many Alliance enrollees, and we see first-hand how these burdensome requirements create barriers for individuals trying to maintain their coverage, even when they do everything in their power to comply. Although Alliance recertifications are suspended during the PHE, without action, these onerous requirements will resume when current PHE protections end. This would mean the return of the significant challenges that Alliance beneficiaries faced prior to the PHE due to the onerous recertification requirements necessary for Alliance enrollees to simply maintain vital health coverage.

The Council has previously taken steps over the years to address this problem. In late 2017, the Council unanimously passed the DC Healthcare Alliance Amendment Act of 2017, which would have repealed the current six-month, in-person recertification requirement and replaced it with an annual certification schedule similar to what is already in place for Medicaid enrollees. However, this legislation was not funded in either FY19 or FY20, and was ultimately repealed. This past December, the Council again passed legislation to shift the Alliance to annual

recertification,<sup>23</sup> but Alliance enrollees are again in the position of needing this legislation to be funded in order to fully take effect and the end of the PHE.

The Council recently concluded in the Department of Health Care Finance Alliance Reform and Budget Transparency Emergency Declaration Resolution of 2021 that despite the 2017 Act being repealed in the Fiscal Year 2021 Budget Support Act of 2021 due to budgetary concerns, “based upon Fiscal Year 2020 end-of-year actual spending and current enrollment projections, it appears that there will be substantial underspending in the Medicaid Reserve and Department of Health Care Finance”, and that funds in the Medicaid Reserve that will no longer be required, “instead may be dedicated for reforms of the D.C. Health Care Alliance”.<sup>24</sup> The Mayor must do everything in her power to ensure that the repeal of the six-month, in-person recertification requirement is fully funded in the FY22 budget.

We continue to urge this Committee and the Committee on Health to work together to push the Bowser Administration to fix this longstanding problem with the Alliance program as well. We also urge DHS to continue to take steps to alleviate common challenges customers face, including allowing all beneficiaries, including Alliance recipients, to complete interviews by phone when PHE protections expire and recertifications resume.

### **Conclusion**

We ask the Committee to work with DHS and the Mayor to allocate funding so DHS has adequate resources to continue providing critical services to the increasing number of District residents who rely on public benefits due to the PHE. Specifically, we urge the Committee and DHS to allocate funding for legislative changes to the Alliance recertification process, additional staff and support to respond to fair hearing requests, and the IDA program to reduce the amount of time individuals spend on the wait list before receiving benefits.

The Committee must continue to exercise ongoing oversight and hold DHS accountable for the resources it has been allocated to ensure that DHS is resolving service delivery issues, particularly those around document processing and customer communications, in a timely manner and that the agency continues to balance physical safety with accessibility for District residents, including those with limited access to technology or other barriers to using online platforms. The Committee should scrutinize the agency’s procedures for IDA terminations and work with the Committee on the Judiciary and Public Safety, DHS, and OAG to increase clarity and implementation of the child support requirement and implement internal safeguards to

---

<sup>23</sup> See DC B23-0890, <https://lims.dccouncil.us/downloads/LIMS/45633/Meeting2/Enrollment/B23-0890-Enrollment1.pdf>.

<sup>24</sup> Department of Health Care Finance Alliance Reform and Budget Transparency Emergency Declaration Resolution of 2021 approved January 5, 2021 (Res. 24-0013; 68 DCR 800), available at <https://lims.dccouncil.us/downloads/LIMS/46231/Meeting1/Enrollment/PR24-0025-Enrollment1.pdf>

ensure accurate notices, and opportunities to cooperate, were provided to TANF parents before their family's benefits are sanctioned by 25% due to noncooperation.