December 19, 2021

Melisa Byrd, Senior Deputy Director/State Medicaid Director
Department of Health Care Finance
441 4th Street, NW, Suite 900S
Washington, D.C. 20001

Dear Deputy Director Byrd:

The undersigned organizations (all of whom are members of the Alliance Coalition) are writing to provide comments and recommendations on the emergency and proposed rulemaking prepared by the Department of Health Care Finance (DHCF) to adopt, on an emergency basis, Chapter 33 entitled "Health Care Safety Net Administration" of Title 22-B of the District of Columbia Municipal Regulations. As you know, these emergency regulations are vital to achieving the goals of DHCF's Alliance program which are, in part, to provide funding for, and increase the availability of, healthcare and medical services for low-income District residents who do not qualify for Medicaid.

We commend DHCF for attempting to address the longstanding barriers that have undoubtedly led to Alliance participants losing coverage through no fault of their own. This emergency rule provides an opportunity for DHCF and the Department of Human Services (DHS) to re-think their approach to processes for both initial Alliance applications and recertifications, particularly in light of the fact that on October 31st of this year nearly 7,000 DC Healthcare Alliance (Alliance) and Immigrant Children's Program (ICP) enrollees lost coverage due to overwhelmingly burdensome re-enrollment barriers whose harmful effects were exacerbated by an overwhelmed DHS.[1]

If adopted as is, the emergency and proposed rules would: (1) eliminate Alliance in-person interview requirement for FY2022, (2) retain the six-month re-certification requirement, and (3) include additional options for submitting Alliance applications. While the emergency proposed rules are a step in the right direction, **we urge DHCF to end the precarity of health care coverage for Alliance participants by making more significant and permanent changes to Alliance processes.** These comments contain a series of recommendations for changes to the Alliance application and recertification processes, as well as proposed regulatory language. While the recommendations vary in their details, they are supported by two foundational principles:

1. **Ultimately, Alliance's application and recertification procedures should align with those of Medicaid on a permanent – not emergency – basis.** Making this change would

[1] *See* Mitch Ryals, *Thousands of Immigrant Residents Terminated from D.C. Health Care Program Will Be Reinstated*, WASHINGTON CITY PAPER (Nov. 17, 2021), https://washingtoncitypaper.com/article/539459/thousands-terminated-from-dc-healthcare-alliance-are-reinstated/.

require repealing all interview requirements and moving to an annual recertification schedule (which the Budget Support Act will require as of April 1, 2025). Alliance applicants and participants should not experience any additional barriers to health care access compared to the low-income District residents who are served by Medicaid when the only difference between these two populations is their immigration status.

While the recently enacted Budget Support Act mandates this change in 2025, we urge DHCF to support funding and statutory modifications that would implement these provisions earlier. This approach would model legislation that was passed in 2017 and again in 2020 which would have eliminated these distinctions.[2]

2. **DHCF must offer as many options as possible for completing all elements of the application and recertification processes, including several methods of submitting documents and several methods of completing any interview requirements.** Doing so would ease the burden both on Alliance participants (by ensuring that they have as many options for completing these requirements as possible) and on DHS (by diverting some of the workload away from the ESA service centers and the DHS Call Center, which struggle with capacity to address these and other benefits-related issues).

We look forward to continuing to work with DHCF/DHS to implement these recommendations. We would be happy to participate in further conversations regarding the recommendations and to work through any logistical or other concerns.

I. RECOMMENDATIONS

A. Recommendations for Alliance Interviews

There are several options for revising Alliance's current interview process that would represent significant improvements to the proposed regulations. The recommendations below are described in order of priority.

1. Full Medicaid Alignment: Annual Recertification with No Interview Requirement

The undersigned organizations believe that aligning Alliance's application and recertification processes with Medicaid is the best approach to managing the program. Medicaid alignment means annual recertification with no interview requirement. To achieve this, DHCF should act

[2] Such legislation should be similar to Bill 22-0231, the Department of Health Care Finance D.C. HealthCare Alliance Amendment Act of 2017, introduced by Councilmember Gray on April 4, 2017. The Council passed this legislation on December 5, 2017, but unfortunately, it was not funded in either the FY2019, FY2020, or FY2021 budgets. The Act was ultimately repealed in the FY21 Budget Support Act; *see also* B23-0890 (This bill contained language that, if funded, would shift Alliance to an annual recertification schedule and end the requirement that recertifications be done in person with the Department of Human Services).

pursuant to its current authority to issue final regulations permanently ending the interview requirement—not just waiving it for FY2022. Provisions of the Fiscal Year 2022 Budget Support Act prohibit in-person interviews in FY2022 and allow the Mayor discretion with respect to whether to require in-person interviews in FY2023, FY2024, and FY2025. The Mayor should exercise this discretion by permanently ending the in-person interview requirement now.

The Mayor should also fund the shift to an annual recertification schedule in the FY2023 budget, and propose accompanying Budget Support Act language reflecting an annual—rather than six-month—recertification requirement. While the Budget Support Act shifts the six-month recertification schedule to an annual one beginning on April 1, 2025, the Administration should not wait this long. A simple amendment to the Code in the upcoming FY2023 budget process (and the provision of sufficient funding to implement this change) could resolve problems caused by the six-month recertification schedule once and for all.

Medicaid alignment would remove barriers that have resulted in Alliance participants losing coverage through no fault of their own, contributed to long lines at DHS service centers, and caused destabilizing churn in the program that is likely contributing to increased per-capita costs for the program. It would also ensure that all low-income populations in need of health care are treated similarly regarding access to health assistance programs, and that populations served by Alliance (low-income immigrants) are no longer singled out for additional burdensome requirements.

As the Alliance Coalition has previously noted, under the six-month, in-person interview requirement, significant percentages of Alliance participants have typically not completed their recertifications during the month that they were due to recertify. In FY2018, for example, between 44% and 52% of Alliance enrollees up for recertification each month did not complete the recertification process, and in the first quarter of FY2019, there was not a single month in which even half of participants up for recertification successfully completed the recertification process.[3] Such disruptions in healthcare coverage unnecessarily risk the lives and wellbeing of Alliance enrollees. Without consistent coverage, Alliance enrollees cannot access life-saving medical care such as medications, surgeries, and consultations with medical professionals.

These recertification failure rates are hardly surprising, given that, prior to pandemic-related closures, ESA service centers (where Alliance enrollees recertified) were plagued by long lines and service delivery problems. During the week of January 21, 2020—less than two months before the beginning of the Mayor's first public health emergency—lines in front of the service centers were as long as 107 people at around 7:30 AM when they opened their doors.[4] We believe that these long lines at the service centers were a major contributing factor to high

[3] DHCF FY2018-FY2019 YTD Performance Oversight Responses, Q49. Available at: https://dccouncil.us/wp-content/uploads/2019/04/dhcf.pdf

[4] Legal Aid Performance Oversight Testimony Regarding the Department of Human Services, (Jan. 29, 2020), p. 3. Available at: https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-Alliance-FINAL.pdf

recertification failure rates, as many Alliance participants simply could not afford to wait for hours in line to complete their in-person interviews. And those who did line up outside the service centers to recertify contributed to the centers' long lines, creating a vicious cycle (long lines deter recertification, recertifying contributes to long lines).

A DC Fiscal Policy Institute report revealed that there is likely a relationship between the six-month, in-person recertification requirement and escalating costs of the program.[5] In short, the combination of frequent recertifications and an onerous interview requirement has likely functioned as a significant deterrent to younger, healthier individuals applying for and staying on Alliance, leaving only the individuals in greatest need of consistent health care access (likely older individuals in worse health) to navigate the recertification process and persist through barriers.[6] As a result—as DHCF staff have repeatedly observed in its public remarks and presentations on Alliance—in comparison to Medicaid patients, Alliance patients are older, sicker, and more expensive, on a per-person basis, to cover. As long as this distorted risk pool remains in place, the Alliance program will likely continue to experience escalating costs.

DHCF could address all these problems by simply and permanently doing away with Alliance's special application and recertification requirements and adopting Medicaid's procedures. A less frequent recertification schedule and the removal of interview requirements would significantly reduce recertification failure rates and burdens on DHS service centers and would encourage healthy individuals to apply for Alliance and maintain their enrollment. Medicaid alignment remains the most effective approach to reducing barriers to accessing health coverage and maintaining the long-term health of the program.

2. Recommendations for Modifications to the Interview Requirement

If DHCF chooses not to permanently eliminate the interview requirement beyond FY2022 in this round of regulations, we recommend modifying the interview requirement so that, in the event that it returns following FY22, Alliance beneficiaries could use less burdensome options for completing an interview. Each of these approaches would reduce barriers to the program, although they would not be as effective as permanently removing the interview requirement altogether.

a. Expansion of Interview Methods

If DHCF reinstates the interview requirement, we recommend that enrollees have the following options for completing the interview: in person, by telephone, in person or by telephone with a Federally Qualified Health Center (FQHC), or by commonly available electronic means, including video communications applications. This recommendation would add to proposed rule 3301.2 by including alternatives to in-person interviews if the post-FY2022 funding condition in

[5] DC Fiscal Policy Institute, *No Way to Run a Healthcare Program: DC's Access Barriers for Immigrants Contribute to Poor Outcomes and Higher Costs*, March 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/

[6] This is in addition to the interruptions in health care that lapses in health coverage can cause.

the rule is not met. This recommendation also improves 3301.1 by including Federally Qualified Health Centers as an interview option. Regardless of how frequently Alliance applicants and enrollees are required to interview or recertify, these options should be available.

Problems with limiting alternatives to telephone interviews. If implemented, these recommendations would give additional options to enrollees who cannot appear in person for an interview. This is important because our clients frequently experience extremely long hold times when they attempt to get through to the DHS Call Center. Indeed, DHS's pre-hearing oversight responses for FY19 indicated that, "[f]or much of the year, the staff . . . answering phones was 50 percent of what the total should be, which made it particularly challenging to meet the high call volume" and led to "long wait times" and an increase in the "number of abandoned calls."[7] These Call Center hold times have continued to be a problem during the COVID-19 pandemic, as more and more customer service has shifted away from the service centers and to the Call Center.

Shifting Alliance interviews exclusively to the DHS Call Center would likely overwhelm the Call Center's resources and lead to longer hold times and service delays not just for Alliance enrollees but for all public benefits recipients in the District. These long hold times could create a significant barrier to recertification for many Alliance enrollees, as it is often not feasible to wait on hold for over an hour due to competing obligations (such as child care or employment) or financial constraints (such as limited minutes available on a cell phone or concerns about cell phone charges).

Reliance on the Call Center would be particularly difficult for callers with limited English proficiency, who struggle with long wait times and often fail to receive service in their primary language. DHS must address these language access issues regardless of these regulations. However, the current problems with obtaining language accessible services through the DHS Call Center make it essential that these regulations provide alternatives to the Call Center for limited English proficient enrollees.

Benefits of allowing participation by FQHCs. Allowing Alliance enrollees to complete the interview at FQHCs would reduce the strain on limited DHS resources by shifting some of the workload away from the agency. Moreover, it would reduce the burden on Alliance enrollees by allowing them to complete the interview process at locations they already visit to obtain health care. In addition, due to the familiarity that FQHCs have with serving the Alliance population, they are well positioned to provide culturally competent, bilingual services when completing interviews. And, allowing Alliance enrollees to recertify at an FQHC—a trusted community partner—will provide more of a sense of safety and security for a population that has been the subject of harassment and marginalization in recent years.

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[7] DHS FY19-FY20YTD Performance Oversight Responses, Q31 (discussion of DHS's Key Performance Indicators (KPIs)). Available at: https://dccouncil.us/wp-content/uploads/2020/01/1-FY19-20-DHS-Performance-Oversight-Pre-Hearing-Responses_Delivered-to-Council.pdf

We expect that DHCF would need to work with FQHCs to provide the resources, training and oversight needed to conduct the interview and eligibility process for Alliance enrollees. However, this investment in time and resources would potentially save the District money and staff time as well as providing a safe and convenient environment for the District's immigrant populations.

The Appendix contains proposed language to 3301.1 and 3301.2 to reflect these recommendations.

CONCLUSION

The undersigned organizations thank DHCF for proposing emergency rules that could lead to stable and long-awaited health insurance coverage for the District's immigrant and low-income population. We look forward to continuing our working relationship and hope that, ultimately, this vital program will be easily accessible to all qualifying District residents who need the health assistance Alliance provides.

Legal Aid Society of the District of Columbia

The Platform of Hope

DC Health Matters Collaborative

SEIU Local 32BJ

Bread for the City

Briya Voices for All

La Clínica del Pueblo

Mary's Center

APPENDIX: PROPOSED CHANGES TO REGULATORY LANGUAGE

Below are the Alliance Coalition's suggested changes to the proposed emergency regulations governing Alliance recertification process. Proposed new language is in bold red, while bold strikethroughs mark language that should be deleted:

3301.1 An applicant shall apply for the Alliance program by submitting to the Department an application form designated by the Department, which may be found on its website at https://dhcf.dc.gov/service/how-apply-medical-coverage. The application form may be submitted to the Department:

(a) In person;

(b) By mail;

(c) By phone; ~~**or**~~

(d) Through other commonly available electronic means, including fax or online via a web-based portal; **or**

(e) in-person or by telephone at a federally qualified health center (FQHC).

3301.2 Applicants and beneficiaries for the Alliance program shall not be required to participate in an interview as a condition of eligibility ~~**during FY 2022. Waiver of participation in an interview in subsequent fiscal years is contingent on funding by the Council**~~.

> Note: If the interview requirement is not permanently eliminated, then language including alternatives to in person requirements should be included to reflect the expanded interview options. For example: "If interviews are reinstated in subsequent fiscal years following FY2022, then the interviews may be conducted in person, by telephone, in person or by telephone with a federally qualified health center (FQHC), or by other commonly available electronic means, including video communications applications."

3301.13 Each Alliance program beneficiary shall renew eligibility every six (6) months-by submitting a renewal form to the Department either in person, by mail, **by telephone, in person or by telephone at a federally qualified health center (FQHC), or** by other commonly available electronic means including by fax or online via web-based portal~~**, or by completing the renewal telephonically**~~.