

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

Budget Oversight Hearing Regarding the Department of Health Care Finance

March 28, 2022

The Legal Aid Society of the District of Columbia¹ submits the following testimony regarding the Mayor's proposed Fiscal Year 2023 budget for the Department of Health Care Finance (DHCF). Legal Aid thanks the Bowser Administration for using the FY23 Budget Support Act to propose ending the District of Columbia Health Care Alliance's six-month, in-person recertification requirement. If passed, this proposal would remove a longstanding barrier to healthcare for thousands of Washingtonians who are immigrants and represent a key step toward a more fair and equitable public health system in the District. It would also reduce administrative burdens for the Department of Human Services (DHS), hopefully to the benefit of all District residents who interact with DHS to secure safety net benefits. We urge the Council to approve the Mayor's proposed repeal of this policy when it approves the FY23 budget.

The Health Care Alliance's Onerous Recertification Requirements Have Created a Barrier to Immigrants' Healthcare Access for More Than a Decade

The District of Columbia Health Care Alliance (the Alliance) is a locally-funded healthcare program that provides health insurance coverage to low-income District residents who are not eligible for Medicaid. It is a crucial gap-filling source of health coverage for immigrants living in the District, offering the promise of continuous access to healthcare to thousands of residents whose immigration status leaves them vulnerable to economic marginalization and the numerous

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.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 90 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, and our blog, www.MakingJusticeReal.org.

health challenges that flow from that marginalization. The program is operated by DHCF, while DHS is responsible for administering its eligibility processes.

More than a decade ago, in October 2011, the District instituted a policy requiring Alliance participants to renew their coverage every six months and to complete an "in-person interview" as part of each recertification of their eligibility. This requirement was significantly more onerous than the recertification process for similarly situated low-income Washingtonians enrolled in Medicaid.²

The policy immediately prevented many eligible participants from being able to maintain their health coverage under the Alliance and resulted in needless terminations. As early as April 2012, Legal Aid testified before the Council's Committee on Health that we were seeing an increase in the number of Alliance participants seeking legal help because they attempted to recertify in-person but were unable to do so.³ In the intervening years, Legal Aid has documented the extreme measures that Alliance participants have had to take in order to renew their coverage, including – in the pre-pandemic years – lining up outside of DHS service centers at 4 AM or earlier to attempt to complete the in-person interviews required to keep their coverage.⁴ Enrollment and other data from those years have demonstrated that the Alliance participants Legal Aid has served are not outliers. As the DC Fiscal Policy Institute detailed in 2018, during the first year the six-month, in-person recertification requirement was implemented (FY12), Alliance enrollment plummeted by one-third, from roughly 24,000 participants to about 16,000.⁵ Data on the monthly completion of recertifications showed that a substantial number of

² Medicaid enrollees recertify once a year by mail and are not required to complete an in-person interview for recertification.

³ Legal Aid Budget and Oversight Testimony Regarding the Department of Health Care Finance, April 19, 2012. Available at: <http://www.legalaiddc.org/wp-content/uploads/2013/10/APatterson4-19-12.pdf>

⁴ See, e.g., Legal Aid Performance Oversight Testimony Regarding the Department of Human Services, January 29, 2020. Available at: <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-Alliance-FINAL.pdf>

Legal Aid Performance Oversight Testimony Regarding the Department of Health Care Finance, February 6, 2019. Available at: <https://www.legalaiddc.org/wp-content/uploads/2019/02/Legal-Aid-FY18-19-DCHF-Oversight-Testimony-Health-Care-Alliance-FINAL.pdf>

⁵ Jodi Kwarciany, *What DC Can Do to Improve Access to Health Care for Thousands of Immigrant Residents*. DC Fiscal Policy Institute, April 26, 2018. Available at: <https://www.dcfpi.org/all/what-dc-can-do-to-improve-access-to-health-care-for-thousands-of-immigrant-residents/>

participants up for recertification each month failed to complete the recertification process on time.⁶

The COVID-19 pandemic brought temporary protection from this policy, as the Bowser Administration suspended recertification requirements for a number of safety net programs, including Alliance, with the Alliance's recertification suspension lasting from March 2020 to September 2021. Unfortunately, an attempt to restart recertifications in October 2021 resurrected many of the problems associated with the program's recertification requirements, and led to the termination – and fortunately, quick reinstatement by the Administration – of 6,100 participants in the Alliance and Immigrant Children's Program.⁷

Simply put, from the beginning, the decision to require Alliance participants to complete onerous requirements just to keep their healthcare has cost participants their health coverage and made the program less accessible and reliable than its participants deserve.

⁶ For example, over the first five months of FY20 (the last before the pandemic), between one-fifth (22%) and one-third (33%) of participants required to recertify in a given month did not complete the recertification process by their deadline or re-enroll in the program within 30 days after their deadline. DHCF FY20-FY21 Performance Oversight Responses, Q35. Available at: https://dccouncil.us/wp-content/uploads/2021/06/DHCF-FY20-Performance-Oversight-Responses_FINAL_Updated.pdf

Data from prior years paint an even grimmer picture. For example, from October 2017 through January 2019, between 44% and 66% of Alliance participants up for recertification each month did not complete the recertification process on time. DHCF FY18-FY19 Performance Oversight Responses, Q49. Available at: <https://dccouncil.us/wp-content/uploads/2019/04/dhcf.pdf>

And DHCF reported in 2016 that during calendar year 2015, between 56% and 71% of participants each month did not complete the recertification process. *See*, DHCF FY2017 Budget Presentation for MCAC, March 2016, at slide 33. Available at: https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/DHCF%20FY2017%20MCAC%20Budget%20Presentation%203-2016_1.pdf

⁷ For a more detailed discussion of the events of fall, 2021, see Legal Aid's Performance Oversight Testimony Regarding the Department of Human Services. Legal Aid Performance Oversight Testimony Regarding the Department of Human Services, February 24, 2022. Available at: <https://www.legalaiddc.org/wp-content/uploads/2022/02/Testimony-before-the-Committee-on-Human-Services-regarding-the-DHS-Damon-King.pdf>

The Mayor's Budget Support Act Ends the Onerous Six-Month, In-Person Recertification Requirement and Creates a More Just and Equitable Policy

The FY23 Budget Support Act includes language that would permanently end the Alliance's six-month, in-person recertification requirement beginning in FY23.⁸ If the Council approves this language and the accompanying funding to implement it, then, from October 1, 2022 onward, Alliance participants:

1. Would no longer be required to complete in-person interviews when applying for Alliance or recertifying their eligibility, and
2. Would only be required to recertify their eligibility once per year.

This policy change would bring the Alliance's recertification timeframes and policies into closer alignment with Medicaid.

Ending the six-month, in-person recertification requirement would have a number of benefits. First, and most importantly, the roughly 22,000 Alliance participants would face fewer barriers to staying covered.⁹ Over the years, legal services attorneys and healthcare providers, as well as

⁸ Language passed in last year's FY22 Budget Support Act of 2021 stopped in-person interviews in FY22 but allowed them in FY23-FY25. It also required six-month recertifications before phasing them out after April 1, 2025. Fiscal Year 2022 Budget Support Act of 2021, Enrolled August 10, 2021, at 139. Available at: <https://lims.dccouncil.us/downloads/LIMS/47312/Meeting3/Enrollment/B24-0285-Enrollment12.pdf>

The FY23 Budget Support Act amends this FY22 BSA language. Specifically, it removes language allowing in-person interviews in FY23-FY25, as well as the delayed implementation of the annual recertification schedule. New language specifies that Alliance participants would be "required to recertify enrollment on an annual basis." The effect of the FY23 BSA language, if passed, would be to permanently end in-person interviews and shift to annual recertifications beginning in FY23. Fiscal Year 2023 Budget Support Act of 2022, Introduced March 16, 2022, at 36-37. Available at: <https://lims.dccouncil.us/downloads/LIMS/49079/Introduction/B24-0714-Introduction.pdf>

⁹ For enrollment data, *see*, District of Columbia Department of Health Care Finance Monthly Enrollment Report – February 2022, Reflecting Period of January 2021-January 2022. Available at: <https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/MCAC%20Enrollment%20Report%20-%20February%202022.pdf>

Alliance participants themselves, have testified to the Council's Committee on Health and Committee on Human Services about the significant difficulty participants have had renewing their coverage. Ending the in-person interview requirement, as well as the requirement that participants renew coverage every six months, should substantially reduce these difficulties, allowing for greater access to and continuity of healthcare for Alliance participants.

Second, and more broadly, ending this requirement would reduce the administrative burden on DHS, allowing the agency to redirect resources to improving access to all other DHS benefits. By cutting the number of required Alliance recertifications per year in half, the BSA would significantly reduce the number of Alliance-related submissions that DHS would have to process each year. Removing the interview requirement would also help DHS. In the pre-pandemic years, the in-person interview requirement contributed significantly to the number of people lining up in front of ESA service centers in the morning, as Alliance participants had no choice but to "interview" with a District employee every six months to stay covered. While under the BSA's proposed changes, Alliance participants would still be permitted to recertify in person, the removal of the in-person requirement should mean that in the future, fewer people would be in the position of needing to go to DHS service centers as a matter of course. This should result in more capacity at the service centers, which should, in turn, benefit a broader population of District residents who need to contact DHS regarding District safety net programs administered by the Department.

Finally, the elimination of the six-month, in-person recertification requirement sends an important message to the District's immigrant communities. One of the more pernicious aspects of this requirement has been the District's choice to single out a program primarily serving low-income immigrants for requirements that *do not exist* in similar safety net programs serving mostly U.S. citizens. The fact that the District's Medicaid participants are not subjected to semi-annual recertifications or mandatory in-person interviews presents a sharp contrast to the treatment of Alliance participants over the last decade. At best, this policy has always reflected a deep insensitivity to the difficulties that immigrants face building lives for themselves and their families in the District, as well as the vital role that immigrant communities play in the District's day-to-day life and culture. At worst, it has reinforced the notion that those in positions of power in the District view members of immigrant communities (especially those with low incomes) with suspicion and simply do not prioritize their needs on the same level as non-immigrant Washingtonians. Addressing this unjust and unnecessary policy makes clear that, when it comes to accessing healthcare, immigrant Washingtonians should not be treated differently. This is a powerful message that we hope policymakers will keep in mind as they make future decisions impacting immigrants living in the District.

As the Medical Care Advisory Committee (MCAC) has highlighted, enrollment in both the Alliance and the Immigrant Children's Program (ICP) has increased since the early months of the pandemic. See, Slides January 19 DHCF MCAC Eligibility Enrollment Subcommittee, at slide 22. Available at:

https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/page_content/attachments/MCAC%20EE%20Subcommittee%20Meeting%20Presentation%20011922.pdf

Conclusion

Legal Aid is extremely pleased that the Mayor's proposed FY23 budget seeks to correct the longstanding injustice of the Health Care Alliance's six-month, in-person recertification requirement and we thank Mayor Bowser for taking this crucial step to improve healthcare access and equity. We urge the Council to approve this change. Legal Aid looks forward to continuing to work with the Administration and the Council to ensure that all District residents can access quality healthcare and other safety net support when they need it.