

**Testimony of Samantha Koshgarian  
Supervising Attorney, Housing Law Unit  
Legal Aid Society of the District of Columbia**

**Before the Committee on Human Services  
Council of the District of Columbia**

**Public Hearing Regarding:  
Bill 24-0120  
“Emergency Rental Assistance Reform Amendment Act of 2021”**

**April 28, 2022**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony in support of the Emergency Rental Assistance Reform Act of 2021. This legislation would make permanent meaningful improvements to the Emergency Rental Assistance Program (ERAP), which were put in place on an emergency basis during the COVID-19 pandemic, and which have improved access to ERAP for District residents and strengthened the program’s ability to prevent eviction and stabilize housing. Most relevant here, the expanded ability for ERAP applicants to provide self-certifications to meet ERAP’s documentation requirements has improved access to assistance. The decoupling of the program from case management services has allowed the program’s resources to serve the needs of rent-burdened District residents more efficiently. And the increased caps on assistance have allowed ERAP to completely resolve housing emergencies for more applicants.

Through a historic economic crisis, ERAP has played a critical role in stabilizing housing for District tenants, and significant need remains. In making the above improvements permanent, this legislation will help ensure that ERAP can continue to play that role effectively.

---

<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 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](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

## **Self-Certification is a Critical Option for ERAP Applicants**

We strongly support making permanent the expanded ability for ERAP applicants to use self-certification to meet documentation requirements. During the pandemic, allowing applicants to self-certify where necessary has allowed many families to access ERAP who might otherwise have faced eviction. However, the problems obtaining documentation required for ERAP predated the pandemic, and will persist after it is over. At Legal Aid, we have seen countless clients struggle to obtain documentation in time to access benefits and prevent eviction. Applicants must often rely on third parties to document their income, assets, and circumstances of rental arrearages. As such, access to such documentation is too often completely out of applicants' control. This is particularly problematic given that ERAP applicants often need to complete an application and secure assistance within a short timeframe to successfully prevent displacement. Lengthy delays while clients chase down documentation can lead to them running out of time to redeem before eviction, or to denial of their ERAP applications under the regulations.

As a practical matter, the ability to self-certify is often necessary for an applicant to access assistance because other documentation is simply unavailable. In our practice, we have seen two primary issues that arise with documentation for ERAP. The first is with required documentation that is straightforward, but difficult to obtain if the tenant does not already have it. An example of this is the need to document the number of household members. Providers often request birth certificates to document minor household members, which is a clear and specific request. However, birth certificates are time-consuming, expensive, and administratively burdensome to obtain if they have been lost, or the tenant did not previously obtain them (for example, an applicant with a new baby or a grandchild living with a grandparent who does not have their birth certificate).

Similarly, though documenting income seems straightforward, it often is not. We have had many clients who were unable to get documentation of prior employment or lost income from employers that no longer exist or simply did not keep good records (and have no incentive to be responsive to former employees). In many cases, Legal Aid staff have attempted to intervene to assist clients in getting these records and have still been unsuccessful. It is that much more difficult to navigate these documentation requests for applicants with jobs that leave them little time for tracking down documents during business hours, or who are without counsel or sufficient access to technology. The residents who are often most vulnerable and in need of assistance are the most likely to have these barriers prevent them from obtaining assistance altogether without the benefit of self-certification as an option. This includes including elderly residents, those with disabilities, extremely low-income residents, and non-English speakers.

The second issue we see most commonly arises when applicants are asked to document the “[f]acts and circumstances surrounding rental arrearages.” Very often, the circumstances that led to rental arrearages defy easy documentation. There may have been a combination of unreliable hours at work, being the victim of a theft, having a car break down, informal misleading communications with a landlord, or any number of contributing factors. These are issues that arise in all families, but that pose particular burdens for low-income residents. These situations

do not always have clear accompanying third-party documentation. ERAP applicants, like everyone, do not necessarily foresee that they will need to keep a receipt for a car repair, or that failure to report a theft to the police might leave them later unable to access rental assistance.

It is particularly important that this legislation clarifies that self-certification “shall be considered sufficient documentation”. This will promote consistency of administration of benefits between applicants and across providers. Historically, we have seen different providers make significantly varied determinations regarding what level of documentation is considered sufficient, including variance among different applicants to the same provider. Our office has also previously provided to the Council the stories of clients who faced significant delays in their ERAP applications because of unclear or inconsistent communication about what documentation is still necessary to complete an ERAP application.<sup>2</sup> These communication breakdowns put clients at even more of a disadvantage, as they may not even discover that a provider is requiring a certain document until their application has been pending for weeks. Directing providers to consistently accept self-certification prevents unconscious biases from informing these decisions. It also ensures that applicants are not prevented from accessing benefits merely based on the provider reviewing their application. This is particularly critical now that the application process is largely centralized.

Self-certification improves accessibility for applicants, removes significant barriers for the District’s most vulnerable residents, and allows for timely administration of funds that effectively prevent eviction.

### **Case Management Should not be Required for ERAP Applicants**

We also support this legislation making clear that ERAP applicants should not be required to participate in case management programs as a condition of assistance. Making engagement with such services a requirement for assistance is contrary to best practices, which suggest a voluntary services model, consistent with Housing First principles, is both more effective and less paternalistic. Additionally, as we have previously argued, case-management services are a poor fit for many ERAP applicants.<sup>3</sup> It is well-recognized that the District has an affordable housing crisis. The fact is that for low-income families in the District, low wages and lack of affordable housing often means that one medical emergency or reduction in work hours can mean an

---

<sup>2</sup> *Legal Aid Public Oversight Roundtable Testimony Regarding Rental Assistance and Eviction Prevention* (February 22, 2021) (Testimony of Emily Near), available at: [https://www.legalaiddc.org/wp-content/uploads/2021/02/Rental-Assistance-Roundtable-Testimony\\_EN\\_2.22.21-FINAL\\_to-post-1.pdf](https://www.legalaiddc.org/wp-content/uploads/2021/02/Rental-Assistance-Roundtable-Testimony_EN_2.22.21-FINAL_to-post-1.pdf)

<sup>3</sup> *Legal Aid Performance Oversight Hearing Testimony Regarding the Department of Human Services* (January 29, 2020) (Testimony of Samantha Koshgarian), available at: <https://www.legalaiddc.org/wp-content/uploads/2020/02/Legal-Aid-DHS-Oversight-Testimony-FY19-FY20YTD-ERAP-FINAL.pdf>

imminent risk of eviction. For families in this situation, the problem is not a need for case management. There is simply not enough money to get through the emergency. This is precisely the need that ERAP is designed to fill.

DHS has pointed to the incidence of repeat ERAP applications to suggest that those clients who are seeking assistance in multiple years would obviously benefit from case management. This applies a broad diagnosis that does not acknowledge the reality of DC's rental market. Ultimately, the reason families need ERAP assistance in multiple years is not because they need comprehensive services. It is because the housing affordability crisis in the District persists and deepens with each passing year. To require those families to engage in more comprehensive programming to receive that assistance does nothing but create an additional unnecessary burden on the already-scarce time resources of the families and fiscal resources of DHS homelessness programming. Permanently removing that requirement will help ensure that ERAP funding is directed where it is most valuable – to covering rental arrearages and keeping residents in their homes.

### **Increases to ERAP Assistance Caps Should be Made Permanent**

Need for ERAP assistance remains historically high as the District works to recover from lasting effects of the COVID-19 pandemic. As of mid-March 2022, 17 percent of tenants in the District report they are not current in their rent payments, amounting to approximately 28,000 households.<sup>4</sup> Over ninety percent of the families reporting that they are not current in their rent are headed by a Black or Latinx tenant.<sup>5</sup> According to Census data, of those households that are not current, 70% are households with children, 71% report loss of employment income in the last 4 weeks, and 70% have income below \$25,000. These households represent many of the District's most vulnerable families.

We continue to see tenants in court who did not benefit from STAYDC with balances resulting from many months of nonpayment during the pandemic. These balances are significantly higher than ERAP's regulations currently allow the program to cover. Many residents have not recovered economically from the pandemic and are still looking for employment or struggling to access unemployment benefits. For these tenants, their rent arrearages continue to grow. This is even more of an issue as landlords begin to take rent increases that were previously prevented due to the pandemic. High inflation means that even landlords who are constrained by rent stabilization laws can take unusually high rent increases this year, making it even harder for tenants to catch up. With all these factors, there is every reason to believe that need for rental assistance will remain historically high.

---

<sup>4</sup> U.S. Census Bureau, *Week 43 Household Pulse Survey: Mar. 2-14 – Detailed Tables*, Housing Table 1b, available at: <https://www.census.gov/data/tables/2022/demo/hhp/hhp43.html>.

<sup>4</sup> *Id.*

For this reason, we support making permanent the increased caps on assistance that allow ERAP to pay up to five months of fair market rent, which can be increased to seven months for large families or applicants who are elderly or have disabilities. We also strongly support the provision that allows DHS to waive these caps for up to the number of months of the public health emergency, and we ask that the Council act to ensure that DHS meaningfully exercises that discretion, particularly where it will preserve affordable tenancies.

### **Conclusion**

Legal Aid appreciates the opportunity to testify about the Emergency Rental Assistance Reform Act. We urge you to pass this legislation, and look forward to the opportunity to continue to work with the Council and DHS to strengthen ERAP so it better serves District residents in need.