



**Testimony Regarding Agency Performance Oversight for the Department of Human Services**

**District of Columbia Council Committee for Human Services**

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The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony on behalf of our clients, many of whom are elderly, disabled, survivors of domestic violence, children, or caretakers of children, and who need and deserve a well-functioning government that can deliver their benefits in an efficient and timely manner. Unfortunately, this is not the reality that our clients experience. We therefore urge the Council to hold the District Department of Human Services accountable for the serious systemic service delivery problems that are leading to widespread, erroneous reductions and terminations of benefits in the District's Temporary Assistance for Needy Families (TANF), POWER, Supplemental Nutrition Assistance Program (SNAP), Medicaid, and Alliance programs.

Furthermore, as this committee well knows, many of our clients who rely on TANF are in danger of losing all of their benefits in October 2017 if the District does not act to protect them. We greatly appreciate the work that Councilmember Nadeau and others on this committee have done to ensure that this does not occur. We urge the Council to adopt the recommendations of the Mayor's TANF Working Group to prevent the 13,841 children who rely on TANF from losing this critical safety net benefit. We also urge the Council to demand greater accountability from DHS in improving the operations of the District's POWER program, which provides benefits to TANF recipients facing barriers to employment.

**Problems with DHS computer systems and service centers are causing widespread loss of access to critical safety net benefits.**

Over the last few months, Legal Aid has seen a dramatic rise in the number of clients seeking our help with unexplained terminations of their TANF and SNAP benefits (commonly known as food stamps). We understand that the Department of Human Services is undertaking significant changes in the way that they process applications for and renewals of public benefits as well as the operations of its service centers. While bumps in the road are to be expected from any operational change, we fear that far too many of our clients are experiencing benefit disruptions without clear ways of addressing them.

Let us offer you three concrete examples of the real life impact of these operational failings on D.C. residents. Sharice Coleman, who is testifying today, spent months trying to get POWER benefits for herself and her daughter who had just been diagnosed with Type I diabetes.

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<sup>1</sup> The Legal Aid Society was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." Over the last 80-plus years, tens of thousands of the District's neediest residents have been served by Legal Aid staff and volunteers. Legal Aid has been practicing in the area of public benefits for a number of years, representing clients with TANF, SNAP, and Medicaid cases.

While Legal Aid was working with Ms. Coleman to get her POWER benefits, she was notified on January 25 that her SNAP benefits would terminate on January 31. It turns out the agency had mailed a renewal notice to an old address despite the fact that she had updated it two years earlier. Despite Legal Aid's intervention, it took an entire month for Ms. Coleman to get her SNAP benefits restored, and even then, it still appears to be in the wrong amount. Because she did not get her POWER benefits, Ms. Coleman was unable to take her daughter to school, pay her rent on time, and had to keep her daughter's follow up medical appointments. When she lost her SNAP benefits, she was unable to pay for food and had to get food from friends and relatives.

April Thomas<sup>2</sup> receives TANF, Food Stamps, and Medicaid for herself and her 8 year old and 12 year old sons, both of whom are disabled. Ms. Thomas also has significant disabilities and receives TANF via the POWER program. She relies on Food Stamps to provide food for her children – one of her sons is gluten and lactose intolerant and his diet is costly. In February, DHS inexplicably terminated Ms. Thomas's food stamps. She did not receive any notices warning her about this change to her benefits. When Ms. Thomas went to a DHS service center with her mental health case manager a few days later, the DHS employee released \$139 in food stamps – far less than the \$511 per month that she had been receiving – but did not give her an explanation about why her food stamps were reduced nor explain how she could challenge the reduction. Ms. Thomas returned to the service center three more times to try and resolve the problem, but was unable to do so. Then, in March 2017, DHS terminated Ms. Thomas's TANF benefits without notice or warning. This is when Ms. Thomas sought help from Legal Aid, who filed an emergency hearing request. DHS eventually restored Ms. Thomas's benefits only after Legal Aid represented her before the Office of Administrative Hearings.

Maxine Hardy is 75 years old who receives TANF, Food Stamps, and Medicaid for herself and her two grandchildren. Ms. Hardy has been forced to appeal her erroneous benefit terminations to the Office of the Administrative Hearings twice in the past six months. In September 2016, Mrs. Hardy's TANF and Food Stamps for her children were terminated because the agency claimed, erroneously, the children no longer lived with her. Ms. Hardy visited the DHS service center several times – even bringing the children with her – to try and convince the agency that she was still their sole caretaker and thus eligible for benefits. Then, the children's Medicaid benefits were terminated one month later. As a result, the children were unable to get needed medical care. Ms. Hardy appealed these decisions and sought help from Legal Aid. The agency eventually agreed to restore benefits in January 2017. But two months later, DHS terminated Ms. Hardy's TANF and Food Stamps benefits again without any notice or warning. Legal Aid filed an emergency hearing request. Only as a result of Legal Aid's advocacy at the Office of Administrative Hearings did DHS eventually restore the benefits.

The experiences of these clients and many others point to widespread technological problems, worsening lines at service centers, continuing problems with lost paperwork and a lack of transparency about the impact of these changes on agency processes and client well-being.

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<sup>2</sup> Name changed to protect client's identity.

### *Widespread Technological Problems*

In October 2016, DHS transitioned its administration of the TANF and food stamps programs from its legacy computer database system (ACEDS) to the newer “DC Link” or DCAS system. From Legal Aid’s perspective, the result has been an unprecedented crisis. Our clients routinely find that the TANF or SNAP benefits that they rely on to pay rent or buy groceries for their family have suddenly—with no warning or explanation—failed to upload onto their benefits cards.

### *Worsening Lines at Service Centers*

At the same time as these widespread technological problems are occurring, the District is also implementing a Business Process Improvement plan in all of its service centers. The goal of this improvement plan is laudable: to implement a “one and done” model of customer service, in order for an individual to handle all of his or her business at a service center in one visit, reducing the need for return visits to service centers by consumers. However, because each staff member must spend more time with each consumer, the lines at service centers appear to have gotten longer and more and more people appear to be instructed to leave and return again another day. Moreover, we are hearing reports that the new DCAS system is crashing every few days, such that consumers can often not be helped when they do make it through the service center doors.

The problem of long wait times at service centers is nothing new. Legal Aid and other organizations have previously documented these difficulties in their 2014 report *Closing the Gap Between Policy and Reality: Preventing Wrongful Denials and Terminations of Public Benefits in the District of Columbia* (<http://www.makingjusticereal.org/legal-aid-and-dcfpi-report-decries-benefit-access-barriers-proposes-solutions>) and testimony before this committee in 2015 (<http://www.makingjusticereal.org/legal-aid-testifies-about-systemic-errors-by-d-c-department-of-human-services>). Yet, with the transition to the Business Process Improvement plan, the problems appear to be getting worse. Agency officials told advocates at the beginning of this process that things would get worse before they get better. We are all still waiting for things to get better. In the meantime, our clients must battle impossibly long lines to attempt to access and retain their critical benefits, which are increasingly in peril due to the widespread technological problems discussed above. The technological problems exacerbate the lines at service centers, as more and more caretakers are forced to go to the service center in person after their families’ benefits do not load to their EBT card.

### *Widespread Problems with Lost Paperwork*

DHS continues to be plagued by problems with lost application and recertification paperwork, causing improper delays in and deprivations of coverage. For example, in the past few months alone, Legal Aid has intervened on behalf of six children (including several newborn infants) who had gone without Medicaid for several months (and in some cases close to a year) due to DHS’s failure to process Medicaid applications their mothers had submitted. Two of these mothers made repeated visits to the service centers and submitted multiple applications,

none of which were acted upon until Legal Aid got involved. In the interim, their children went without needed medical and dental care.

*Need for Immediate Action and Transparency*

While Legal Aid hopes that the Business Process Improvement plan and the transition to a new computer system will eventually lead to better public benefits delivery in the District, these changes are currently wreaking havoc with the District's most vulnerable residents as they continue to wait for hours at service centers and their benefits are terminated without notice. Immediate action is needed to protect these individuals; they cannot simply be asked to wait without food or cash assistance while the District slowly reforms its processes and fixes its technology.

Making matters worse is the fact that the agency refuses to meet with Legal Aid and other advocates concerning the current crisis. Legal Aid and other advocates have repeatedly reached out to the agency to express our concerns and request an opportunity to discuss these issues but have received no response. As a result, we have no information about steps the agency is taking to mitigate these problems and how our clients might be able to benefit from mitigation strategies. In addition, the channels established for resolving individual cases through more informal means have largely broken down, requiring Legal Aid to file formal fair hearing requests in the majority of cases. This in turn leads to further delays in our clients' ability to access benefits and further taxes our resources.

Legal Aid fears that there could be thousands more individuals and families in the same position as the clients we are helping. But, without a lawyer, these individuals may just give up and go without the benefits on which they depend because they cannot navigate the process or penetrate the DHS Service Centers on their own.

**The service centers will not be able to efficiently operate as long as the District maintains its 6 month, in person recertification requirement for the Alliance program.**

The Alliance face-to-face interview requirement implemented in 2012 places a significant strain on limited agency resources and will make it difficult for the agency to improve its customer service. Legal Aid's previous monitoring of the service centers found that 40% of those interviewed at the Taylor Street Service Center were there to conduct their face-to-face interviews for Alliance. *See* Testimony for Public Oversight Hearing on the Performance of the Economic Security Administration of the Department of Human Services District of Columbia Council Committee on Health and Human Services by Wes Rivers, DC Fiscal Policy Institute and Chelsea Sharon, Legal Aid Society of the District of Columbia (March 12, 2015), at <http://www.dcfpi.org/wp-content/uploads/2015/12/Joint-ESA-Oversight-Testimony-from-Legal-Aid-and-DCFPI.pdf>. Unless the Alliance recertification requirements are changed, service centers will continue to feel the strain of consumers seeking to complete the required face-to-face interview.

This strain is also being felt by our clients who are losing their benefits at astonishing rates. DHCF's own data indicates that, in each month over the course of 2015, between 56 percent and 71 percent of those who were due to recertify for the Alliance that month were

unable to do so successfully.<sup>3</sup> See DHCF FY2017 Budget Presentation for MCAC, March 2016, at slide 33, at [https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/DHCF%20FY2017%20MCAC%20Budget%20Presentation%203-2016\\_1.pdf](https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/DHCF%20FY2017%20MCAC%20Budget%20Presentation%203-2016_1.pdf). In DHCF's responses to questions posed by this committee, the agency acknowledged that "a considerable proportion of the number of Alliance beneficiaries who were terminated each month were re-enrolled with their previous MCO within 60 days; for some MCOs in some months, as many as 50 percent of new enrollees in a given month were those who had been terminated within the past 60 days but later reenrolled." DHCF Answers to the Committee for Human Services, at page 224. The fact that so many terminated Alliance beneficiaries regain coverage suggests that the terminations are not people who have abandoned the process (based on ineligibility) but instead are eligible people who cannot overcome the barriers to renewal, including the six month, face to face interview requirement. And when these individuals lose their coverage (even for a relatively short period of time), they can lose access to essential health care services thus jeopardizing their health and, potentially, leading to higher costs when they return to the rolls with untreated conditions.

Our experience serving many Alliance beneficiaries teaches us that this dramatic drop-off at recertification is due to the significant obstacles these beneficiaries encounter when visiting DHS service centers. The first of these obstacles is extraordinarily long lines and wait times. Legal Aid—along with other legal services providers—has previously interviewed consumers at service centers and found that over a third of consumers across three service centers reported arriving between the hours of 4 a.m. and 6 a.m. and waiting for several hours in the hopes of being seen. At the Taylor Street Service Center—which serves the majority of Alliance beneficiaries—54% of those waiting in line had arrived at that time. See 2015 Testimony by DCFPI and Legal Aid, at <http://www.dcfpi.org/wp-content/uploads/2015/12/Joint-ESA-Oversight-Testimony-from-Legal-Aid-and-DCFPI.pdf>.

Our clients take the extraordinary step of lining up this early because, otherwise, they are often turned away due to the service center being at capacity. For example, Legal Aid helped one Alliance beneficiary who was unable to be seen on any of her three visits to a DHS service center over a two-month period. Despite arriving before 7:00 a.m. on each visit and waiting for several hours, she was repeatedly told that the service center was at capacity and she could not be seen to conduct her face-to-face interview. As a result, she went without health coverage for several months before seeking help from Legal Aid.

Another Legal Aid client—a mother of three—encountered similar obstacles. She visited a service center on three separate occasions over a one-week period to attempt to conduct the required face-to-face interview. Because she had to drop off her children at school, she was unable to arrive before 9:00 a.m., making it nearly impossible for her to be seen. On each visit,

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<sup>3</sup> In the agency's responses to the Committee, they provide figures for the number of enrollments and terminations in September 2012, September 2013, September 2014 and September 2015. Then, the agency provides a figure for the percentage of individuals terminated from coverage (of total enrollees) in a given month. DHCF Answers to the Committee for Human Services, at page 224. These figures show that total enrollment in the program is relatively stable at a given point in time. The figures do not, however, show how many individuals who apply in a given month are unable to recertify in six months.

she was turned away due to the service center being at capacity and was only able to recertify her coverage once Legal Aid intervened.

The lengthy wait times at service centers make it nearly impossible for individuals with jobs to dedicate the time necessary to conduct the face-to-face interview necessary to recertify their coverage. For example, Legal Aid helped one Alliance beneficiary who could not get a day off of work until the last day of his certification period. When he arrived at the service center, he was told he could not be seen and would have to try again another day. Unable to return again because of his work schedule, his coverage terminated. Although his coverage was ultimately restored, the same beneficiary is again at risk of termination six months later due to similar problems completing the recertification requirements.

**TANF is a safety net that the District must protect and fortify.**

As this committee is well aware, TANF is a critical safety net for District families struggling toward sustained employment in an economy that often does not have room for them, and it is a lifeline for District families facing insurmountable barriers to self-sufficiency. Over 5,000 District families, including over 13,000 of D.C.'s kids, are in danger of losing this safety net if the council and Mayor do not act by October 1, 2017 to fund a sustainable solution to the "TANF Cliff."

Last year, the Council initiated a conversation about the future of the TANF program through the introduction of an important piece of legislation: the DC Public Assistance Amendment Act of 2015. The bill, introduced by (now Committee Chair) Brianne Nadeau and co-sponsored by five additional Council members, was designed to protect families from falling deeper into poverty by protecting families facing severe barriers to employment from arbitrary TANF time limits. The bill was comprehensive, addressing both short-term barriers which could be resolved through improved work supports, and long-term barriers, such as disability or domestic violence, that would likely preclude sustainable employment. The Public Assistance Amendment Act was informed by extensive research and best practices from states around the country.

But there were some concerns that the bill might be difficult to implement, requiring the Department of Human Services to screen and track families for different exemption or extension categories. Additionally, there were unanswered questions about how families who were still struggling to obtain sustained employment but did not meet any of the bill's criteria for exemptions and extensions to the time limits would survive without TANF benefits.

In response to these concerns, Mayor Bowser delayed last October's planned termination of benefits for these families and convened a Working Group to bring stakeholders together and create a sustainable solution for our most vulnerable residents. The Mayor's Working Group built on the strengths of the Public Assistance Amendment Act and worked to address its shortcomings. Over the course of several community listening sessions and three intensive strategy sessions, Working Group members heard from people with a broad array of backgrounds and experiences. Their stories highlighted the barriers to employment that TANF

parents face, and the need for cash assistance to promote better outcomes for their children in times of economic hardship.

The Working Group also heard from local and national policy experts about the potential consequences of terminating TANF benefits before parents can support themselves through employment. These consequences can include food insecurity, housing instability and homelessness, child endangerment, and poor school performance. For example, one study from Washington State saw an increase in homelessness, child maltreatment, and foster care placements after TANF time limits were more stringently enforced. *Recommendations for Development of a Hardship Extension Policy for Washington, DC*, pages 10-11. Other research suggests that low levels of income in early childhood can have detrimental effects on earnings and health in adulthood. *Id.*<sup>4</sup>

Ultimately, TANF parents, advocates, and representatives of the Department of Human Services all agreed that job training programs for employable TANF recipients needed to be better tailored to meet their individual needs. However, there was also widespread agreement about the need for supports and continued assistance for families who cannot work or are temporarily unemployed.

Legal Aid was proud to be a member of the Working Group and fully supports its recommendation to eliminate the arbitrary, one-size-fits-all 60-month lifetime limit on TANF benefits under current law, and replace it with a program that makes sense for District families. Under the plan, the traditional TANF grant would be divided into two separate grants: a Child Enrichment Grant, and a Parent TANF Grant. The Child Enrichment Grant would ensure a base level of cash assistance to children. The Parent TANF Grant would provide more cash assistance to those families who comply with the Individual Responsibility Plans (“IRPs”) developed with agency staff, while promoting accountability by reducing the Parent Grant through “sanctions” for parents who do not provide a valid reason for failing to participate. Instead of terminating children and their parents from all cash assistance, regardless of their ability to support themselves, this plan would ensure a basic level of support for families with incentives and penalties for families that do not participate in work and work preparation activities.

The Working Group’s proposal will not be inexpensive in the short term, but the money spent on supporting families will pay dividends in improved family outcomes and savings to other safety net programs, such as foster care and emergency shelter. Providing stability for DC’s children and allowing their parents to partake in improving job services now will help shore up the District’s future.

### **The District Must Improve Its Operations of the TANF and POWER program.**

The Working Group’s ability to answer the Mayor’s call to address the critically important issue of TANF reform speaks to the extraordinary power of collaboration. However,

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<sup>4</sup> See also Duncan and Magnuson, *The Long Reach of Early Childhood Poverty*, Winter 2011, available at: [http://inequality.stanford.edu/media/pdf/pathways/winter\\_2011/PathwaysWinter11\\_Duncan.pdf](http://inequality.stanford.edu/media/pdf/pathways/winter_2011/PathwaysWinter11_Duncan.pdf); Dearing, McCartney, and Taylor, *Change in family income-to-needs matters more for children with less*, *Child Development*, November/December 2001, available at <http://onlinelibrary.wiley.com/doi/10.1111/1467-8624.00378/pdf>.

more work needs to be done to support the implementation of the Working Group's recommendations. For example, the Agency will have to improve its processes for developing Individual Responsibility Plans (IRPs) that accurately reflect families' needs and abilities and revamp the processes for identifying and enrolling families with short-term and long-term employment barriers in the POWER program to protect them from inappropriate sanctions. These additional tasks will be nearly impossible without the Agency's willingness to be transparent with stakeholders and openness to further collaboration to address related areas for concern.

The POWER program seeks to ensure that families facing significant barriers to employment receive full monthly benefits that are not subject to the 60-month time limit or to a sanction for failure to participate in work requirements. In this way, the POWER program recognizes the significant barriers that arise from, for example, surviving domestic violence, suffering from a physical or mental disability, or providing care for a family member with a physical or mental health impairment.

POWER is a critical safety net for families in the District. For example, Legal Aid assisted a client, Charisse Smith<sup>5</sup>, in obtaining POWER benefits for herself and her four children after she experienced domestic violence. Her abusive ex-boyfriend found out where she lived and came to her house one night in November. He threatened her with a gun for hours and refused to leave the house until her kids started to wake up for school. After being accepted into the POWER program, the Smith family's monthly benefits increased from \$217 to \$516. These benefits were critical as Ms. Smith was unable to comply with the TANF work requirements after the violent incident. She made many trips to the courthouse to testify before a Grand Jury, file for a Civil Protection Order, and meet with the prosecutors about the criminal case against her ex-boyfriend. Additionally, she enrolled herself and her children in therapy and other supportive services to process the trauma they had witnessed.

Despite the critical importance of the POWER program for families who are facing time limits, DHS does a poor job of identifying, screening, and referring TANF families to the program. District law requires that the Department of Human Services identify and refer potentially eligible POWER beneficiaries to the program during their initial assessments or re-certifications. (Families are not allowed to apply for POWER directly; therefore, the only entrée into the program is through identification and referral by a DHS employee.) However, DHS has not clearly delineated its policies for screening and assessing TANF families for potential POWER eligibility, leading to confusion, delays in processing cases, and the potential for premature case closures.

The POWER program would benefit from increased transparency from the agency in establishing screening procedures, timelines, and requirements for communicating with POWER applicants. Our client Ms. Coleman, whose story was related earlier, was sent back and forth between Maximus and the Fort Davis Service Center and still did not get POWER benefits until she obtained legal help. Our other client, Ms. Smith, almost had her case closed by the agency 30 days after being referred to the POWER program. The vendor who screens for domestic

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<sup>5</sup> Name changed to protect client's identity.

violence POWER indicated that Ms. Smith was not responsive to their attempts to contact her. However, Ms. Smith did not receive any missed calls or phone messages from the vendor.

Additionally, many applicants who are referred to the POWER program do not receive the appropriate notices required by law if they are accepted into or denied from the POWER program. Notices serve a crucial function in informing recipients of their current status within public benefits programs, the legal reason for a denial or acceptance, and the right to appeal the agency's decision.

## **Conclusion**

While we appreciate the agency's efforts to address the TANF Cliff (through the Mayor's Working Group) and modernize its systems, we are very concerned about our clients' ability to get and keep their safety net benefits from the Department of Human Services. The agency's current lack of transparency increases these concerns. We urge the Council to hold the agency accountable for committing to goals and timetables for improvement and following through on those commitments. The District's poorest residents need and deserve that accountability as well as a well-functioning system of public benefits delivery.