

**Testimony of Haley Hoff
Staff Attorney, Public Benefits Law Unit
Legal Aid DC**

**Before the Committee on Housing
Council of the District of Columbia**

Performance Oversight Hearing Regarding the Department of Human Services

February 29, 2024

Legal Aid DC¹ appreciates the opportunity to share our views on the performance of the Department of Human Services (DHS), the impediments District residents face in trying to access benefits, and improvements the agency can make. TANF, SNAP, Medicaid, and Alliance are vital benefit programs that help District residents meet their basic needs. However, despite the commitment of DHS to provide these benefits to low-income DC residents, the reality remains that people are unable to obtain benefits because of service delivery-related barriers.

The service delivery and technology issues that we and our clients experience demonstrate that DHS is far from the efficient, transparent, and accessible administration of public benefits that District residents not only deserve but are entitled to under the law. Of the numerous recommendations we propose, we wish

¹ Legal Aid DC 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 92 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.

to highlight our hope that the Council and DHS will work together to fund and create a DHS Ombudsman to assist District residents with public benefits issues.

DHS Service Delivery Has Worsened Over the Past Year

DHS has made significant efforts to expand benefits and service delivery options for DC residents. Unfortunately, despite these efforts, service delivery problems at every level continue to impede customers' ability to access and maintain these critical benefits. Customers who visit Service Centers in person often risk serious delays or gaps in benefits because of processing issues.

- **Processing Delays:** Statistics on SNAP food assistance benefits published by the U.S. Department of Agriculture serve to illustrate the scope of how severe the processing delays are. For example, data on SNAP application processing timelines show fundamental issues in how the District handles all applications. In 2022, the District ranked worst in the country, with only 42.86% of applications processed in accordance with the timelines required by federal regulations.² The District was the only location in the country where less than half of applications were processed on time – the second-lowest performer, Guam, processed 65.93% of applications on time.³

The agency often misplaces paperwork or fails to process applications, recertifications, and verifications within the timeframes required by law. This occurs regardless of whether customers submit paperwork in person, by fax or mail, or District Direct. Even when customers receive notice of their deadline to recertify and successfully complete their recertification before the deadline, many customers still have their benefits terminated due to processing delays. It can take months for the agency to reinstate benefits.

Below is one of many examples we have observed:

A Call Center representative indicated to a Legal Aid attorney and their client that DHS would not comply with the federal regulations requiring agencies to process Emergency SNAP applications within 7 days. When Legal Aid reiterated the processing deadline, the Call Center representative responded that, "even if that's what the law says, it's not going to happen," and that even

² Food and Nutrition Service, *FY 2022 Reported SNAP Application Processing Timeliness*, USDA (Nov. 9, 2023), available at <https://www.fns.usda.gov/snap/fy-2022-reported-application-processing-timeliness>.

³ *Id.*

expedited applications (for applicants with zero income) are taking 30 days because of staffing issues.

- **Inability to Communicate with Service Center Staff.** Many customers are unable to speak or work with a Social Service Representative to ask questions about their cases or turn in paperwork directly. We have repeatedly heard from clients, including those with disabilities or who are LEP/NEP, who require assistance completing the 68-page paper application that they are not able to receive help they need from Service Center staff and are therefore unable to submit an application.
- **Language Access:** Barriers to communication are particularly acute for Limited and Non-English Proficient clients. While Legal Aid DC appreciates that DHS has made the online applications available in Spanish and Amharic, LEP/NEP clients often still require assistance to create a District Direct account. Claimants whose primary language is not English mainly rely on the Service Centers to submit applications, rectifications, and verifications. Therefore, they are particularly impacted by the service delivery issues at the Service Centers. Legal Aid clients who are LEP/NEP have reported being unable to speak to a Service Center representative about their case and simply being directed to fill out recertifications or applications and place them in the Drop Box. LEP/NEP clients have also reported needing an English-speaking family member or friend to accompany them to the Service Centers or navigate District Direct in order to fill out applications.⁴
- **Call Center:** While the Call Center is the only option DHS gives customers to follow up on questions related to their benefits, it remains ineffective. Usually, a DHS representative picks up fairly quickly but is unable to give detailed information about the person's case. At that point, they are placed on hold and transferred to another DHS representative who can give more specific information about the person's case but is unable to resolve problems (e.g. go into DCAS and take actions to process an application). Most callers are told a "ticket" is placed on their case and a supervisor will call them within 48-72 hours. The majority of Legal Aid clients report that they are never contacted by DHS to resolve the issue.

⁴ The Language Access Act requires that DHS "provide oral language services to a person with limited or no-English proficiency who seeks to access or participate in the services, programs, or activities offered by the covered entity." D.C. Code § 2-1932.

- **Lack of Proof of Visits or Submissions:** Prior to the pandemic, DHS kept visitor logs to track Customers who visited the Service Centers. The agency also had a receipt system in place that indicated the service center, time, date, and what the customer’s visit entailed (e.g. “TANF application” or “residency verification.”).

Now, no such system exists. Currently, DHS staff direct individuals to leave their applications, recertifications, and verifications in the Drop Box. However, Service Center staff rarely upload or process the paperwork from the Drop Box into DHS’s computer system, DCAS, the same day or even the same month. DHS does not have a visitor log or issue any receipts for customers who use the Drop Box. DHS only offers receipts to customers who 1) successfully talk with a DHS representative and 2) affirmatively ask for a receipt. This practice is deeply problematic and does not comply with Federal law which states, “When a household member completes an application, the State agency **must** offer to provide a copy of the completed application.”⁵

We regularly assist clients who attempt to follow up on the status of their application and are told that there is no record of an application. Without proof of application, many clients are forced to submit duplicate applications. This leads to confusion and wastes the resources of both clients and the agency. This issue extends to all documents and changes submitted in person.

- DHS has also had persistent issues with failing to process updates to customers’ case files. In many of Legal Aid’s cases, DHS failed to update client reports of changes in address, income, or household size despite the clients informing the agency of the change and providing the requested verifications. This failure to update claimant information causes cascading effects including lower benefits because DHS has not updated changes in income or household size and benefits being terminated without notice because notices are sent to old addresses.

A particularly concerning trend is clients having their benefits terminated after adding a newborn to their household. For example:

One client, Ms. A, had her Medicaid, SNAP and TANF benefits terminated after reporting the birth of her newborn to DHS in July 2023. Legal Aid represented Ms. A, successfully reversing termination of benefits. However, the client returned to Legal Aid in September 2023 after DHS’ system

⁵ 7 C.F.R. § 273.2(c)(1)(v)

wrongly said she was receiving “liquid assets.” The client attempted for over a month to resolve it independently, but it was not until a hearing was filed that DHS resolved the error and resumed benefits.

Another Legal Aid client, Ms. B, applied for SNAP benefits on October 5, 2023. Legal Aid represented her in a hearing after the 30-day deadline for processing had passed. At a hearing on November 21, 2023, DHS policy analyst stated that a case reviewer had “not even been assigned yet.” In the meantime, the client fell behind on rent in order to feed her family. Issues continued to persist regarding verifications that the client submitted multiple times, including via their attorney. DHS still did not approve the benefits until over two months after Ms. B submitted her application.

- **Lack of Notice and Erroneous Notices:** DHS is required by law to issue legally sufficient notices before taking adverse action of their benefits. DHS continues to fail to provide notices to customers about application decisions, recertification deadlines, terminations, or reductions. And when DHS sends notices, they are frequently erroneous notices generated by DCAS. For example, DHS sends many erroneous notices in TANF cases that the child no longer resides in the home or listing incorrect household members. DHS usually tells customers the notice was issued in error and to disregard it. However, without an accurate corrective notice issued customers have nothing concrete to rely on and worry they may not receive their TANF benefits or miss appeal deadlines. And even when the notices are sent and are not wrong, they often do not have sufficient information as required by law to explain what is required of the recipient or the basis for an agency’s decision. For example:

Legal Aid client, Mr. M, submitted a timely renewal via fax and it was not processed. His Medicaid was terminated without notice and he only learned of the problem when he tried to make a doctor's appointment. Legal Aid DC contacted both the Health Care Ombudsman office and DHS and could not get an explanation. After simultaneously filing a hearing request and contacting DHS Senior Policy Advisor, Brian Campbell, the issue was resolved quickly. However, in the process, Mr. M received multiple, contradictory, and incomprehensible notices (for example, one notice stated his income of approximately \$1,000 was over the limit of \$2,000+).

This highlights both the issue of termination without notice as well as the pervasiveness of incorrect notices that only serve to confuse clients. While Legal Aid is extremely grateful for the work of dedicated staff like Brian Campbell, clients should not have to file hearing requests and contact Senior

Policy Advisors to maintain benefits in a case where the client submitted everything in a timely manner.

- **Lack of Responsiveness from the Division of Program Operations (DPO):** Advocates can attempt to resolve problems through the DPO email, but we often do not receive responses or receive substantive updates over 3-4 weeks from the date of the initial email. We are increasingly relying on the fair hearing process at OAH because we have no other method to resolve cases and neither do customers. When DPO does respond about agency action, sometimes errors still remain with the case. For example, DHS will process an application but will not fix household size, or will confirm a client is not eligible for one health insurance program without checking the eligibility of the client for other programs.

The Hearing Process at the Office of Administrative Hearings Is Inefficient and Ineffective Due to Flaws in DHS's Processes

- **Policy Analysts are Overwhelmed.** In OAH hearings DHS is typically represented by policy analysts rather than attorneys. It is often difficult to get in touch with these DHS representatives. Self-represented customers who come to Legal Aid frequently report that they do not know who the policy analyst assigned to their case is and they have not heard from them after the initial status hearing. Legal Aid attorneys frequently do not hear back from policy analysts between hearings despite having reached out repeatedly, sometimes for weeks.
- **The Administrative Review Conference Process Does Not Work as Designed Because DHS Does Not Timely Implement Determinations.** The factual issues in many cases are resolved by the Administrative Review Conference (ARC) process, an optional meeting between the claimant and a DHS representative prior to the first status hearing. However, even when DHS agrees via an ARC representative's finding that the agency erred and needs to take corrective action, it often takes multiple status hearings until DHS has implemented those steps or disbursed benefits that everyone agrees our clients are entitled to.

Additionally, ARCs are not always scheduled as a part of the fair hearing process, leaving clients with one less avenue to resolve a case before having to appear in front of a Judge. At the last meeting with advocates, DHS reported that they are implementing a new system where the same representative will handle the case from the ARC stage to the fair hearing.

We appreciate this change and hope that it will lead to more efficient resolution of cases.

DHS Technology Is Inadequate to Meet the Needs of District Residents

While DHS has made many inroads by introducing electronic submission options for applications and other paperwork, these systems are badly functioning and create barriers to obtaining benefits.

- **Integrated Application:** While it is vital to have an electronic application, the application itself is difficult to navigate and is still 68 pages.⁶ Sometimes, customers mistakenly fail to apply for multiple benefits programs because the language is confusing and cumbersome. This lengthy application is even more inaccessible for DC residents whose primary language is not English. As noted above, LEP/NEP clients often require assistance from English speaking friends and family members or advocates to complete the application.
- **Consistency Across Platforms:** Currently, there does not appear to be an interface between actions that customers take at a Service Center or by mail, Call Center, or fax and District Direct. For example, District Direct only shows applications, recertifications, or verifications that are submitted electronically via the District Direct app or portal. It does not reflect any actions that customers take through other methods. Integrating the confirmation for all actions that a customer takes in District Direct would create more efficiency for customers and ease the burden on the Call Center and Service Centers because people would have clear information about what they submitted when and what DHS still needed from them.

The inefficiencies of the current system increase the burden for DHS staff at every level as customers may submit multiple applications, duplicate verifications, and visit the Service Centers more frequently, adding to the volume of materials DHS must process and further exacerbating service delivery issues. The current system leaves people with uncertainty and, often, without crucial benefits.

- **DCAS and Technological Errors:** The U.S. Department of Agriculture publishes nationwide statistics on cases where an agency takes one or

⁶https://dhs.dc.gov/sites/default/files/dc/sites/dhs/page_content/attachments/Integrated_Application_09092021a_Final.pdf

more inaccurate or procedurally incorrect actions when denying, terminating, or suspending a household's SNAP benefits. In 2022, the District's error rate was 80.46% - once again, the highest in the country.⁷ Based on our experience working with clients, Legal Aid suspects that many of these errors were caused by problems with DCAS.

All errors in DCAS that result in benefits being withheld have disastrous consequences for public benefits recipients, and yet DHS does not have any systems in place to provide benefits when DCAS malfunctions. District residents go hungry when DCAS errors prevent them from obtaining their full SNAP entitlements. Families face housing instability when improper withholding of their TANF benefits prevents them from paying rent. District residents must forego treatment or cancel medical appointments when DCAS problems prevent them from accessing Medicaid coverage. Often, by the time the error is corrected, the harm is already irreparable.

Legal Aid regularly receives 10-15 applications for assistance per week related to DCAS errors. In Legal Aid's experience, DCAS often fails to properly increase benefits when a beneficiary reports a new household member, and DHS does nothing to correct these errors. For example:

*Ms. X promptly reported the birth of her child to DHS and was entitled to higher SNAP and TANF benefits as a result. However, due to a DCAS error, her child was not added to her household. While facing urgent expenses necessary to care for her newborn baby, Ms. X did not receive the benefit increase she was entitled to for twenty months. Ms. X filed a fair hearing request at the Office of Administrative Hearings and was successful in obtaining an order setting a deadline for DHS to pay her the back benefits she was owed. Yet, even in the face of a binding order from the Office of Administrative Hearings, DHS failed to issue the benefits for another month, until after Ms. X retained counsel. DHS reported that **issues with DCAS** were the reason **the agency would not comply** with the Administrative Law Judge's Order.*

⁷ Food and Nutrition Services, Supplemental Nutrition Assistance Program: Case and Procedural Error Rates (CAPER) Fiscal Year 2022, USDA (Sep. 15, 2023), available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-qc-caper-fy22.pdf>; see also Food and Nutrition Services, SNAP Case and Procedural Error Rates, USDA (Dec. 4, 2023), available at <https://www.fns.usda.gov/snap/qc/caper>.

DCAS errors also frequently arise at the initial application or recertification stage. In these cases, a DCAS error often results in a household receiving *no* benefits at all. DHS is aware of these computer problems and does not fix them. For example:

*Ms. Y timely recertified for SNAP and TANF benefits, and later submitted accompanying documentation. A DCAS issue prevented her recertification and other documents from being processed. As a result, DCAS issued SNAP and TANF termination notices for failure to submit the exact same documents DCAS failed to process more than a month earlier. This case provides another illustration of how difficult it is for a benefit recipient to fix a DCAS issue once it arises. Ms. Y repeatedly called the call center to flag erroneous notices, and when that was unsuccessful, she filed a fair hearing request more than two weeks before the scheduled benefit termination. Nonetheless, the erroneous termination went forward, and she did not receive her benefits on time the next month. The failure to process the documents Ms. Y submitted also led to issues with Ms. Y's benefit amount. Ms. Y was successful in obtaining an Order from the Office of Administrative Hearings requiring DHS to correct her benefit amount, yet again, **DHS refused to comply** by the deadline set by an OAH Administrative Law Judge and invoked **DCAS issues** as the reason for non-compliance.*

In addition to SNAP and TANF issues, we have worked with clients whose Medicaid benefits have been wrongly terminated as a result of DCAS errors. These clients are eligible for health insurance coverage and have complied with all the program requirements, but DHS nonetheless terminates their healthcare benefits, seemingly based on random computer problems. In some cases, these clients are only able to identify the issue with their health coverage when their doctor's office calls to tell them they cannot come to an upcoming appointment because they have no medical insurance. When calling the Ombudsman's office to resolve the termination of one client's Medicaid benefits, we were told that the error involved DCAS and that it was "huge issue" and that the Ombudsman's office was receiving multiple calls about and that it could take weeks to fix – leaving clients without coverage for an indeterminate amount of time due to no fault of their own.

DCAS errors frequently take months to correct. But even when these errors are corrected months later, the impacted recipients and their families are not made whole. By that time, it is too late to buy food on the nights the family

already went hungry, or to avoid the late rent fee that has already been charged. It is too late to reverse the serious mental and physical health consequences of not having access to a doctor when needed.

DHS Fails to Communicate with Other Agencies, Resulting in Reductions and Terminations of Benefits

Legal Aid has worked with multiple clients who are told that they have a sanction on their account for failing to cooperate with the Child Support Services Division (CSSD). In many instances, the client has met all cooperation requirements with CSSD and the sanction is due to the agency's failing to properly communicate. Clients often are not given notice of the sanction or informed how to cure it. This results in a reduction of benefits that can last years.

A similar issue arises when clients are terminated from Supplemental Security Income. Clients will automatically lose their Medicaid benefits instead of DHS evaluating whether they should continue to receive benefits under a separate eligibility category. Again, clients often do not receive notice of termination and are only made aware after they attempt to see their doctor.

DHS must ensure that they are communicating with other agencies to ensure clients are not wrongfully penalized.

Recommendations

We ask the Committee to work with DHS and the Mayor to allocate funding for adequate resources so DHS can address service delivery issues and technical problems and provide benefits to DC residents without interruption.

Create and Fund a DHS Ombudsman to Assist DC Residents with Public Benefits Issues and Serve as a Liaison with DHS

While additional staffing, training, and technology improvements are necessary and should be funded by the Council, the reality of overwhelming service delivery issues and lack of access to DHS for resolutions necessitates another avenue for DC residents. The Council should work with DHS to fund and create a DHS Ombudsman's office for residents to obtain answers and resolutions to questions related to DHS benefits, including about pending applications/recertifications, delays in processing information or changes to benefits, changes to benefit amounts, and notice issues.

The Department of Health Care Finance has an Office of Health Care Ombudsman and Bill of Rights⁸, which was established by the Council to assist DC residents with health insurance issues. The Ombudsman's office is available by phone and email and assists to DC residents with:

- Understanding health insurance questions and rights;
- Resolving problems with health care coverage, including facilitating application processing and provision of retroactive coverage, and health care bills;
- Filing appeals if a health care plan denies service or drug coverage; and
- Finding health care resources.

Legal Aid frequently refers clients, and utilizes, the Health Care Ombudsman as an effective option for answering questions regarding healthcare coverage, obtaining assistance, and clarifying information that the agency has related to someone's healthcare. The Ombudsman's office can view DCAS and provide information to callers about their cases, including when DCAS shows an application or recertification was submitted, and providing someone's Medicaid or Alliance number to use even if they do not have an insurance card. Ombudsman representatives provide callers with next steps and a specific point of contact to follow up on cases, unlike the Call Center. The Council also similarly created an Office of the Ombudsman for Children⁹ as an impartial liaison for parents and families with CFSA involvement.

The Council should do the same for DHS and fund an Office of the DHS Ombudsman. DC residents deserve the same level of assistance and resolution from an Ombudsman's office for issues related to their TANF, SNAP, and Interim Disability Assistance benefits. Not only would the Ombudsman's office create a meaningful option for customers to obtain updates and resolve issues around their cases, but it would free up DHS capacity at every level by lessening the need for processing multiple applications, verifications, and fair hearings that people currently submit when they cannot get information from a Service or Call Center or receive conflicting information.

Examine and Modify Business Practices

Where a problem cannot be fixed before a recipients' benefits are due, DHS must develop protocols to ensure benefits are not unlawfully withheld while the problem

⁸ See <https://dhcf.dc.gov/publication/office-health-care-ombudsman-and-bill-rights-01>

⁹ See <https://ofc.dc.gov/>

is being resolved. The District's current practice of telling recipients that they simply have to wait to receive their entitlement until the issue is resolved violates District and federal law. For example, when an issue with DCAS is preventing issuance of benefits, DHS must develop a manual override that ensures benefits are issued on time via alternate methods where they cannot be issued on time by DCAS itself.

Additionally, we urge DHS to resume the practice of giving every customer who applies at a Service Center a date-stamped receipt as proof of their visit as required by law.¹⁰ As noted above, this would ensure DHS customers have proof of their visits when issues inevitably arise.

We also urge DHS to resume the practice of giving every customer who applies at a Service Center a date-stamped receipt as proof of their visit as required by law.¹¹ As noted above, this would ensure DHS customers have proof of their visits when issues inevitably arise.

Finally, DHS must develop streamlined communication between agencies to prevent reduction or termination of benefits.

Ensure Sufficient Funding for the Following Measures

- An Office of the DHS Ombudsman;
- Additional staffing at all levels, including for the Service Centers, Call Centers, and policy analysts;
- Training, including training on timeframes required by law for processing applications and recertifications for different benefit programs and DCAS usage;
- Improvements to District Direct and DCAS; and
- Provision of effective and culturally competent language access services in compliance with the Language Access Act.

Conclusion

The Committee must continue to exercise ongoing oversight and ensure that the agency is accountable for the resources it has been allocated. The Committee should scrutinize the agency's technical systems to help identify the source of errors that impede the payment and processing of benefits and ensure adequate alternatives to provide benefits when its computers fail.

¹⁰ See 7 C.F.R. § 273.2(c)(1)(v)

¹¹ *Id.*