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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

April 29, 2024

Thank you for the opportunity to present this written testimony regarding the Mayor’s proposed FY 2025 budget for the Department of Health Care Finance (“DHCF”). Legal Aid DC¹ represents DC residents in many types of matters involving the District’s Medical Assistance programs. We assist residents who have had applications for Medical Assistance denied, or had their Medical Assistance terminated, including improper terminations due to alleged, and often incorrect, failure to timely renew coverage. We also assist beneficiaries who have experienced reductions or denials of necessary health care services or needs, including with reductions or terminations of their home health care services through regular Medicaid and the Home and Community-Based Waiver program for the Elderly and Physically-Disabled. Legal Aid DC also assists beneficiaries with billing issues, such as being improperly balance-billed for services that should be paid by their insurance.

Legal Aid presented written and live testimony at the Committee on Health’s February 8, 2024 Performance Oversight Hearing for DHCF as well as the March 13, 2024 hearing in support of the Direct Care Worker Amendment Act of 2023. Legal Aid now submits this written testimony to further address our concerns and recommendations regarding the District’s Medical Assistance programs.

¹ Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. 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 legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org.

Legal Aid DC continues to engage with clients facing the same issues that we raised in our above-referenced testimony earlier this year. In particular, in this written testimony, we highlight two continued areas of concern. First, we continue to encounter beneficiaries who are losing their health coverage for allegedly failing to renew their coverage, despite having timely submitted the requested renewal information. Second, we also continue to see multiple beneficiaries who are not receiving all of their approved, medically-necessary home health care hours.

Continued Low Renewal Rates for DC Medicaid Beneficiaries

The most up-to-date figures on Medicaid and Alliance renewals show that, overall, 71% of beneficiaries who were due to recertify between May and December 2023 successfully renewed their Medical Assistance coverage.² This represents only a very small improvement from the figures in our February testimony at the DHCF oversight hearing, showing an overall renewal rate was below 70%.³ The January 2024 report containing these figures also continues to show that the majority of Medicaid terminations are due to problems with renewals, not due to determinations of ineligibility.⁴ Indeed, only very small percentages of each eligibility group had their coverage terminated due to a finding of ineligibility. Legal Aid DC has testified for years about our concerns with DHCF and DHS's processing of renewals, including renewal notices being sent to outdated addresses; and myriad failures by DHS including losing renewals that are submitted by mail or drop box, and in some cases in-person, not adequately following up with beneficiaries when more information is needed to complete a renewal; and failing to timely process completed renewals when they are submitted.

Additionally, the Aged, Disabled and Long-Term Care population continues to have the lowest renewal rate, as compared to children, childless adults, and parents who receive Medicaid. Although the renewal rate for this population is shown to be 68%, which represents a significant increase over the September and October 2023 renewal figures, DHCF itself notes that the 68% figure includes 17,000 SSI recipients who were passively renewed. Because most of the Aged, Disabled, and Long-Term Care Population is non-

² Medicaid and Alliance Recertification Outcomes, January 2024, p. 18. Available at: <https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/Redetermination%20Report%20January%202024.pdf>

³ Medicaid and Alliance Recertification Outcomes, November 2023, p. 18. Available at: https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/page_content/attachments/Redetermination%20Report%20November%202023.pdf

⁴ January 2024 Recertification Outcomes, p. 26-27.

MAGI, they are not able to passively renew, the renewal rate for this population is certainly much lower than 68% when SSI recipients are excluded.⁵

What makes this situation more alarming is the fact that beneficiaries enrolled in Long-Term Care Medicaid are supposed to receive extensive assistance with renewing Medicaid coverage from their case managers (for those enrolled in the EPD Waiver) or from their Long-Term Care Facility. In the case of EPD Waiver beneficiaries, and as Legal Aid DC has testified about in the past, we continue to encounter beneficiaries who are either threatened with termination or have actually had their Medical Assistance terminated, due to case managers who fail to timely submit the renewal materials as they are required to do.⁶ It is very worrisome that renewal rates would continue to be so low among this vulnerable population who are supposed to receive assistance with the renewal process.

Recommendation

Legal Aid continues to recommend that the Administration and the Council provide sufficient funding to DHCF and DHS to allow for adequate staffing levels to ensure timely processing of all Medicaid and Alliance renewals. By fully staffing both agencies, including increases for Full-Time Employees dedicated to processing annual renewals as

⁵ Note that the January 2024 Recertification Report shows that 42,096 Medicaid beneficiaries in the Aged, Disabled or Long-Term Care groups had their renewals initiated between May and December 2023. The May to September 2023 figures, before the passive renewal in October of 17,000 SSI beneficiaries are included, showed a renewal rate of only 43% for the Aged, Disabled, and Long-Term Care Groups. Additionally, the November 2023 report, from right after the October 2023 passive renewal of 17,000 SSI beneficiaries, showed a renewal rate of 73%, but that figure has decreased to 68% in just two months as the effect of the October SSI renewals on the overall Aged, Disabled and Long-Terms care renewal rate fades.

⁶ As we noted in our Oversight testimony, DHCF stated in their response to pre-hearing questions that 21% of EPD waiver enrollees who were due to recertify by September 30, 2023, have been disenrolled due to failure to renew their coverage. DHCF noted that some renewals were completed during the 30-day extension period and the 90 day grace period, which shows that some people who were disenrolled from the EPD waiver likely remain financially and medically eligible. Legal Aid testified at the September roundtable about our concern with low-performing case managers, and our experience in the past with EPD waiver terminations that resulted from case managers failing to timely recertify their patients, and included recommendations below to begin addressing this issue.

necessary, the Council can start to address the problems faced by beneficiaries who seek to renew their Medical Assistance coverage.

DHCF must also address the issue of non-performing case managers (who are responsible for renewing the Medicaid benefits of individuals who receive Medicaid through the EPD waiver). Legal Aid DC also recommends granting access to the DC Direct Partner Portal to beneficiary-designated assisters and shortening/simplifying the renewal documents, which are dozens of pages long. Granting access to the DC Direct Partner Portal to beneficiary-designated assisters, in particular, will help address the problem of non-performing case managers who fail to timely process a beneficiary's renewal.

Home Health Aide Staffing Challenges

1. Legal Aid DC Supports the Direct Care Worker Amendment Act of 2023

Legal Aid DC also continues to urge that the Council pass and fund the Direct Care Worker Amendment Act of 2023. As we testified in the March hearing, data from the DC Board of Nursing shows that the number of licensed Home Health Aides declined by more than 1,700 between August 2023 and January 2024, which represents a decline of more than 20%.⁷ That same survey showed a decline of 4,489 direct care workers⁸ in 2023.

We continue to see the impact of these staffing shortages in our work. Legal Aid DC staff have heard directly from advocates and others who work on long-term care Medicaid and home health care issues that home health workers are leaving for jobs that pay better and/or are less demanding. We have also represented multiple clients in the past couple of years who are not receiving the full number of home health hours they have been approved for because (in large part) agencies do not have enough staff to meet the demand for approved hours. As a result of these shortages, elderly and disabled Medicaid beneficiaries are put at risk of serious injury or worse, or increased risk of institutionalization without assistance to complete their daily activities.

The Direct Care Worker Amendment Act of 2023 includes multiple changes that would begin to address this staffing shortfall.

⁷ DC Board of Nursing Data, cited in the Long Term Care Coalition 2024 Direct Care Workforce Survey – available at: https://www.dclongtermcare.org/wp-content/uploads/2024/02/Final-Jan-2024_Updated.pdf

⁸ Direct Care Workers include Home Health Aides, Certified Nurse Assistance, and Trained Medication Employees.

First, the Act raises compensation for Direct Care Workers to a minimum of 120% of the District’s living wage. Multiple home health agencies that responded to a survey by the Long-Term Care Coalition cited insufficiently competitive wages as a major challenge in hiring and retaining home health aides.⁹ Setting a minimum compensation level of 120% of the District’s living wage is an overdue pay increase for these critically important workers, and should make these positions more competitive with other industries.

Second, the Act includes several commonsense measures that would simplify or eliminate administrative hurdles for Direct Care Workers’ attempting to work in the District. Currently, Direct Care Workers are divided into Certified Nursing Assistants (CNAs) and Home Health Aides (HHAs), with the former working in skilled nursing facilities (SNFs) and the latter working in home settings. Each type of Direct Care Worker has its own licensing requirement, and CNAs are not allowed to work in the home without obtaining an HHA certification. The Act would eliminate these separate licensing requirements and replaces them with a single credential for “Direct Care Workers” (DCWs). This would provide for more flexibility for Direct Care Workers by allowing them to accept different jobs in a SNF and a home setting while maintaining their single DCW certification. Additionally, anyone currently licensed as a CNA or HHA would automatically be certified as a DCW, avoiding a need for yet another licensure requirement for the existing direct care workforce.

The Act would also allow CNAs and HHAs who are licensed in good standing in Maryland or Virginia to practice as DCWs in the District going forward.¹⁰ Currently, except for a limited time during the COVID-19 Public Health Emergency, Maryland and Virginia Direct Care Workers must obtain licenses in the District in order to work here. In the Direct Care Workforce Survey, allowing health aides licensed in good standing in Maryland and Virginia to work in DC was cited by 78% of providers as a “very important” way of addressing the workforce shortage.¹¹

⁹ https://www.dclongtermcare.org/wp-content/uploads/2024/02/Final-Jan-2024_Updated.pdf, at Slide #13.

¹⁰ This was allowed by waiver during the Covid-19 Public Health Emergency, but was not continued after the PHE ended.

¹¹ https://www.dclongtermcare.org/wp-content/uploads/2024/02/Final-Jan-2024_Updated.pdf, at Slide #27.

2. Additional Legislation and Policy are Needed, Including Addressing the Long-Standing Issue of Finding Health Aides for Shorter Shifts

While the Act would make needed improvements in the provision of in-home services, there are other improvements, not addressed by the Act, that we would encourage DHCF and the Council to consider. Legal Aid has represented multiple clients in the EPD waiver program who are approved for more than 8 hours of home health care assistance per day, but only receive 8 hours. This is a particularly common situation for people who are approved to receive 9-13 or so hours per day, which translates into a full 8 hour shift for one health aide, and then a shorter, 2-5 hour shift for a second health aide. This lack of care can be dangerous for an EPD waiver enrollee.

Home health agencies have told Legal Aid staff, as well as DHCF, that the main staffing challenge in those situations is finding aides who are willing to accept a shift of fewer than 7 or 8 hours because home health aides, understandably, prefer to work and be paid for a full 8 hour shift.

Therefore, we strongly encourage DHCF and, if necessary, the Council, to consider additional reimbursement mechanisms and the funding requires to support them – such as reimbursing workers for travel time to, from, and between shorter shifts – and other financial incentives, to encourage workers to accept shorter shifts.

Conclusion

The District's provision of Medical Assistance coverage, and home health care services through regular Medicaid and the EPD waiver program, have helped thousands of DC residents achieve healthier outcomes and stay in their homes over the years. But when there are not sufficient case workers to process annual Medical Assistance renewals, or sufficient direct care workers to meet the level of need that exists, more District residents will end up at risk of losing their insurance coverage, including their homes health services that keep many of them in their homes and communities. We encourage the Council to fully fund all necessary FTEs at DHS and DHCF to timely process Medical Assistance renewals, and to pass the Direct Care Worker Amendment Act of 2023. Thank you for the opportunity to submit this testimony.