



Testimony Before the District of Columbia Council

Committee on Human Services

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Performance Oversight Hearing: Department of Human Services

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Good morning Chairperson Nadeau and members of the Committee on Human Services. My name is Kathy Zeisel. I am a resident of the District and I am a Senior Supervising Attorney at Children's Law Center.<sup>1</sup> I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With almost 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.

I am an attorney in Healthy Together, our medical legal partnership, where we place attorneys throughout the city at primary care pediatric clinics with Children's National, Unity Health Care, and Mary's Center. Through these partnerships, we are referred many families where the medical staff see health harming legal needs and ask us to help. In addition, I served on the Family Rehousing and Stabilization Program (FRSP) Task Force and am now on the FRSP Advisory Group. Today I will address our concerns about the failure of DHS to use scarce resource to provide permanent housing, serious problems in Rapid Rehousing, and successes in the Economic Security Administration (ESA).

### **DC Inexcusably Wasted Permanent Housing Resources**

DC is claiming victories in reducing family homelessness this year, and indeed our numbers have gone down. But that is in large part thanks to the Council's

legislation providing for a moratorium on evictions, which means that families who cannot pay rent have been able to stay housed when normally they would have been evicted and sought homeless services. DC has also created room in shelters and emptied hotels by growing the Rapid Rehousing program to a record 2905 families up from 2200 last year.<sup>ii</sup> At Children's Law Center, we encounter families in Rapid Rehousing when they are referred to us by our medical partners, usually because of health harming housing conditions in the home they are living in or because of shelter denials. One thing all of these families have in common is a need for permanent, safe, and healthy housing.

The Council has for years tried to find money to increase the amount of permanent housing supports available, and during the pandemic, families needed this stability even more. So it was shocking to see that DHS reported that 77% of the Family Targeted Affordable Housing (TAH) vouchers, 67% of Family Permanent Supportive Housing (PSH) vouchers were not used last year, 10% of Individual TAH vouchers and 44% of Individual PSH vouchers went unused last year. And, they also report that almost halfway through the fiscal year, no family or individual TAH vouchers, no family PSH vouchers and only 5% of individual PSH vouchers have been used.<sup>iii</sup> While DHS states they did not do housing placement for some part of the year,<sup>iv</sup> they did continue to place in Rapid Rehousing, increasing the program by 200 families in just the last few months. It is not clear why DHS could continue to place in Rapid Rehousing,

which requires finding a private rental unit, a DCHA inspection, and a lease up, similar to the process for these vouchers, but not continue placement in permanent housing. This is an inexcusable waste of DC resources for families who need permanent housing and there is no good reason for this failure to use these critical housing supports. We must use these vouchers in the future, and we must find out where the money for these vouchers from last year was used.

### **DC Should Make a Coordinated Plan to Prevent Evictions and Rethink System**

We have an opportunity right now to think about how to make our systems work together, to prevent a wave of evictions when the moratorium ends, and to think about how to make the homeless system work better when there is not a crushing pressure on it. We should take advantage of this window of time to be intentional and thoughtful and collaborate between different agencies, the Council, and community stakeholders to be intentional about a plan that fixes our system rather than waste this moment.<sup>v</sup> Hopefully, the moratorium will end in phased way, but regardless, there will be many families who cannot pay the rent they owe unless we structure rent repayment programs as true eviction prevention programs. To accomplish this, we must fund and permanently fix ERAP and we must carefully create a landlord rent payment program that protects tenants and does not only give landlords an economic boost. Success will require utilizing the federal funds coming into the District to actually prevent evictions on a large scale while also coordinating between agencies to provide meaningful job,

educational, and/or disability support to the current Rapid Rehousing participants in an effort to help them meaningfully increase their income.

With respect to ERAP, we support making the temporary self-certification measures permanent. The self-certifications have allowed tenants who truly need the money to maintain their housing to access the money efficiently without onerous burdens. We should join the US Treasury, who in its recent guidance for the federal rental assistance money permitted self-certification of eligibility<sup>vi</sup>, in recognizing that excessive documentation is an unnecessary barrier to preventing eviction. Additionally, because ERAP is almost out of funds already, we must dedicate some of the federal funds to ERAP in order to ensure that tenants whose landlords do not apply for the landlord program or who do not qualify for it have resources to access it to prevent eviction. We also recommend that the city utilize some of the federal money that can be put towards administrative costs for better technology and to address the substantial processing delays for ERAP.

We have also heard that because ERAP and CHAP are a single application, residents cannot choose which program they apply to, and programs are putting most applicants into ERAP before CHAP. However, this means we are using our limited local funds before we spend down the federal funds, and tenants are not given access to what could be a larger amount of rent payment. We recommend this process be revisited.

Turning to the money for the landlord fund, we support the proposals that would allow landlords to apply for funds if they can demonstrate financial losses and would agree to share in financial hardship by taking only a percentage of those losses in exchange for a guaranteed payment for money owed, and potentially for up to three months of future rent. By accepting that payment for the rental arrears, landlords should agree not to evict any tenants who certified for the funds, not to raise their rents for a specified period of time, and to provide actual notice not only of the application, but also of the amount of funds received and the total amount of rental arrears credit per unit. This notice requirement is particularly important because in the last round of funding, some unscrupulous landlords tried to still collect rent from tenants, telling them that the federal funds did not fully cover their debt and they had to pay the remainder.

### **Rapid Rehousing is Not Working**

Turning to the Rapid Rehousing program itself, this program is not a success by any measure. The average monthly income at program entrance was \$942 per month, and only 76 of approximately 2300 families increased income (with an average increase of \$50 per month) and 54% had a decrease in income during the last fiscal year.<sup>vii</sup> DHS provides statistics showing a significant number of people are permanently housed at the end of the program, but the data provided by DHS also shows that the average rent is between \$1800-\$2100 per month.<sup>viii</sup> No data was provided by DHS to account for

how someone would use their \$942 per month to pay the rent, the math just does not work. In our experience, many of those are families who are remaining in their units, unable to pay the rent, waiting until their landlord files an eviction case against them because they have no better option for housing.

### **Serious Housing Conditions Issues for Rapid Rehousing Participants**

Rapid Rehousing clients continued to have some of the worst housing conditions of any of the clients we worked with in the past year. The pandemic seems to have exacerbated this because clients were viewing units virtually and inspections were done virtually, and when some clients moved there were serious housing code issues at move in or shortly thereafter that might have been evident with in person viewings or inspections. One of our clients moved into a unit that she had seen only virtually and which had passed virtual inspection, but during move in, she noticed the wall was soft from being wet and there was a smell of mold in the air. Her child started to have symptoms of an asthma attack almost immediately and she called her shelter case manager to find out what to do. The case manager said that could not do anything because they were in Rapid Rehousing now, but no new case manager had been assigned. They ended up sleeping in their car rather than their new apartment, and then we got involved and got the landlord to provide alternative accommodations while they conducted a full mold remediation of the unit.

This story highlights many gaps in the system that we often see. Not only are clients in health harming housing, but because case managers are not assigned for several months,<sup>x</sup> they often have no one to call to assist them unless they happen to find us. DHS or TCP should assign a point of contact to be responsible for urgent issues that arise during the 154 days when there is no official case manager assigned to a new Rapid Rehousing participant.<sup>x</sup> In addition, this was an issue that should have been caught, but because the inspection was virtual, it was not. We have seen several cases where an in person inspection might have found signs of the terrible rodent or roach infestation that was present on move in or serious water intrusion, but it was not found and the unit was approved.

Even where clients have active case managers, the case managers are explicit that it is not their job to assist with housing searches. This is true for the search for the initial FRSP unit and for any transfer that might be granted. Participants are sometimes provided a list of units, but these are often some of the most notoriously problematic buildings in terms of housing conditions in the city. Our Family Outreach Worker spends a significant amount of her time helping our clients search for new housing in cases to assist with securing an emergency transfer because the case managers are not helping. In one of our cases, our client was granted an emergency transfer because of the serious health harming conditions in her current unit, only to be pressured to move into the Park 7, a building where tenants are rent striking due to conditions and the



owner has been sued by the Office of the Attorney General for wrongfully charging tenants.<sup>xi</sup>

In another case we are handling, our pregnant client has a daughter with a tracheotomy and lung disease. They have been unable to stay in their unit for months due to the severe mouse infestation and mold. The mice actually bit through her daughter's feeding tube, which was the final straw. Yet, she was twice told she could not transfer based on these conditions. It was only after we got involved that an emergency transfer was granted and she is currently trying to find a safe and habitable place for them to live.

These clients and many of our other clients reported that case managers were ineffective at best in helping them with the serious health harming housing conditions in their units. At a minimum, case managers should respond to participants, but we find that many case managers do not respond to calls from our client asking a question or even our Family Outreach Worker, and instead only call back after an attorney calls them. We also had cases where FRSP failed to pay their portion of the rent correctly. In one instance, it resulted in an eviction case being filed against our client, and her case manager did not assist in straightening out the payment issue. It was only after we got involved that the payments were made and the eviction case was resolved. In another instance, we got an emergency transfer for our client, and she went into the portal and paid her portion of the rent, but it was dispersed to her prior landlord, who kept it, and

her new landlord then stated she was months behind in her rent. We had to intervene to get this corrected.

The bottom line is this program is not working. It does not move families out of homelessness into stable housing. DC is funding landlords who put our residents in health harming housing conditions with city funds. The program forces participants to have case management – and then does not provide needed support

### **Case Management in Rapid Rehousing Needs to be Restructured as Voluntary Program with Different Services**

Case managers did not provide effective support in searching for a job, in dealing with issues with virtual school, in managing public benefits issues for them, or in helping them secure housing as part of a transfer or at the end of the program. Now is the time to rethink this program with respect to many areas, including; case management, who should be in the program, what landlords the program pays rent to, and, the length of the program.

Case management organizations should have staff available to provide employment support, housing search support, credit repair, and housing conditions support at a minimum. DHS and TCP need a more effective way to monitor and measure the effectiveness of case management, especially given the high price tag it has

in this program. Participants also need a more effective way to give feedback on case management and to grieve when case management is problematic.

Further, we should follow national best practices and make case management services voluntary.<sup>xii</sup> Requiring case management is grounded in racism. It is grounded in the belief that all homeless families are homeless because they lack some fundamental education or ability rather than the basic fact that due to structural racism, many of them simply have lacked the opportunities to earn sufficient income to pay the high rent on a safe and healthy home for their family and they are being pushed out of DC. Some families will want full case management, some will want parts, and some will just want financial support from the program to get on their feet, and all of those outcomes should be fine in a program that respects the self-determination of the participants in it.

### **Rapid Rehousing Subsidy Must Be Extended with a Focus Permanent Housing**

This year, we are also in the unique position of having many families who will likely all be terminated within a short period.<sup>xiii</sup> We join with other advocates in calling for all families to be extended at least until the end of the fiscal year, when we can look for additional permanent vouchers for families. We also ask that DHS maximize the use of existing vouchers during this year. DHS's position in the oversight document that they may not even extend past March is unacceptable.<sup>xiv</sup> DC should use some of the

federal flex funds if needed, but making these families at high risk of homelessness lose their subsidy during the pandemic is cruel and unacceptable.<sup>xv</sup> Given the rates of unemployment layered with the challenges of finding employment while children are attending school virtually, and there is no aftercare even for children in school, families have had less of a chance than ever this year of improving their income to be able to afford their units on their own.<sup>xvi</sup> Terminating the subsidy too quickly will result in a wave of families needing prevention and homeless services. We should keep families in the program while looking to fund additional permanent housing subsidies and ensure that we are actually using the ones available to us.

In their oversight answers, DHS also states that they plan to expand Rapid Rehousing to youth.<sup>xvii</sup> This is not a good plan. We do not think that youth are in a position to be able to afford their units after Rapid Rehousing any more than families are, and we are concerned about setting them up to fail, to have evictions on their credit and rental records, and about sending them into a cycle of homelessness. We recommend against using resources to start such a program and instead would use those funds to create more permanent housing resources for youth.<sup>xviii</sup>

### **We Do Not Know if Prevention is Working**

The Homelessness Prevention Program is supposed to be designed to keep families from entering the homeless system. We have data that says for the limited time

people are in the program, some do enter the homeless system and many do not. But, for the program to truly be successful, we need to know whether people were truly diverted from homelessness after we stopped giving financial resources to prevent their entry into the system or these resources merely delayed the inevitable by a few months. Yet, we have no idea how many families end up in shelter after the assistance provided by Prevention is over.<sup>xix</sup> It may very well be that once the four months of Prevention paying their rent or after the gift cards provided to the family they are living with runs out, the family ends up in shelter, and we have no idea.

### **Regulations are Needed**

Finally, with respect to the regulations for Rapid Rehousing, there are none. It has been three years since the passage of the HSRA and there are still no regulations.<sup>xx</sup> DHS has changed their operations in this time, but there are no clear rules that participants can rely on because there are no regulations.<sup>xxi</sup> Even the most basic question of what percentage of income will be charged is arbitrary and varies between 40%-60% between programs with no set standard for determining when participants should pay a larger portion of their income. The problems are even evident in the oversight answers where TCP says that participants cannot be terminated for time limits and DHS is contemplating no extension of the subsidy past March, resulting in a wave of terminations for no reason other than a time limit.<sup>xxii</sup>

This is a problem not only for Rapid Rehousing, but also for TAH. In the past year, we saw inconsistent standards applied for TAH and we were told that guidance to case managers was changed, but there was no public written standards or regulations for this program even though it has existed for several years. A permanent voucher program such as TAH should also have regulations governing it so that participants know the criteria for selection and how the program will operate.

### **Economic Security Administration**

The Economic Security Administration has done an excellent job adapting during the pandemic. They have been very transparent about their processes, and they have tried to innovate by bringing more services online and to apps. We hope that DHS will work with community members and other agencies to plan for when recertification restarts as this will be a complicated process with very high stakes for families who could lose their main nutritional support, health insurance, and cash income. We hope that they will coordinate with DHCF around Medicaid to ensure that families who have to reapply have failing to recertify can be put back on the same MCO plan they were on previously in order to avoid significant confusion and potential coverage gaps for the family.

In some of our medical legal partnership sites, we serve many immigrant families who utilize DC Alliance Health Insurance. We join with many others to urge

this Committee to align Alliance recertification and renewal requirements with Medicaid’s in order to ensure that all residents of DC have the same opportunity to access lifesaving health insurance.

## Conclusion

Thank you, and I am happy to answer any questions you may have.

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<sup>i</sup> Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With almost 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

<sup>ii</sup> FY19 from DHS 2020 Oversight Responses, page 29. FY20 from DHS 2021 Oversight Responses, p83. During a November, 2020 meeting of the FRSP Advisory Group, DHS reported that there were 2700 families in FSRP, meaning there were 200 families added to the program between November 2020-February 2021. This is consistent with the plan to add 90 families per month. DHS 2021 Oversight Responses, p92.

<sup>iii</sup> DHS 2021 Oversight Answers, p77-78

<sup>iv</sup> Id at p78.

<sup>v</sup> The FRSP Advisory Group could be a forum for this thinking, but instead it has been focused on narrow questions and not on systems thinking.

<sup>vi</sup> US Department of Treasury, Emergency Rental Assistance, Frequently Asked Questions, Updated Feb. 22, 2021, page 2, available at: [https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions\\_Pub-2-22-21.pdf](https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-2-22-21.pdf).

<sup>vii</sup> DHS 2021 Oversight Answers, p89.

<sup>viii</sup> DHS does not provide the average rental amount for a family. The average subsidy was \$1,327.77/mo, but that could range from a subsidy of 40-60% of the rent depending on the family, and there are no guidelines or regulations about how that will be determined. Id. at p.84.

<sup>ix</sup> Per the DHS 2021 Oversight Responses, p87, the timeframe for assigning a case manager in FRSP was “Families: 62 days in FY19; 124 days in FY20; and 154 days in FY21.”

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<sup>x</sup> In FY20, it took an average of 124 days to get a case manager assigned to a family. In FY21, it has taken an average of 154 days so far. DHS 2021 Oversight Responses, p.88.

<sup>xi</sup> See Morgan Baskin, Companies and Building Owners Pressuring Tenants to Pay Rent Are Benefitting From Pandemic Relief Funding, Aug. 20, 2020, available at:

<https://washingtoncitypaper.com/article/304571/the-same-property-management-companies-and-building-owners-pressuring-tenants-to-pay-rent-are-benefitting-from-pandemic-relief-funding/>

See *AG Racine Announces Owner of Park 8 Will Return \$450K+ to Hundreds of Tenants Wrongfully Billed for Water*, Nov. 21, 2019, available at: <https://oag.dc.gov/release/ag-racine-announces-owner-park-7-apartments-will>

<sup>xii</sup> Both the US Interagency on Homelessness and the National Alliance to End Homelessness states that the best practice for RRH is have voluntary case management. See USICH, *Rapid Re-Housing* at <https://www.usich.gov/solutions/housing/rapid-re-housing/>. See NAEH, *Rapid Re-Housing: A History and Core Components*, <https://endhomelessness.org/resource/rapid-re-housing-a-history-and-core-components/>

<sup>xiii</sup> The plan is not clear. In one section, DHS will not commit to subsidies past March, while in another DHS says they will evaluate terminations based on length of time in the program. DHS 2021 Oversight Responses, p91-92.

<sup>xiv</sup> *Id.* at 91-92.

<sup>xv</sup> *Id.* at p91.

<sup>xvi</sup> And we know from DHS' own reporting that prior to the pandemic, only 7% of families saw any increase in income while in the program, and that was an average of \$100 per month. DHS 2020 Oversight Responses, p107.

<sup>xvii</sup> DHS 2021 Oversight Answers, p 57.

<sup>xviii</sup> *Id.* at p57.

<sup>xix</sup> DHS States, "At this time, we do not track if a consumer who has received diversion assistance has returned to shelter. We are working toward a mechanism that will generate direct alerts to the program if one of our diverted consumers re-enters shelter." *Id.* at p.109.

<sup>xx</sup> Two sets of emergency regulations have been issued, though none had regulations that applied to family FRSP.

<sup>xxi</sup> The Office of the Inspector General is doing an audit of whether this program is in compliance with DC Code and Regulations, but this will be challenging given the absence of such regulations. DHS 2021 Oversight Answers, p23.

<sup>xxii</sup> DHS Oversight Answers, p88-89 and 91-92.