



501 3<sup>rd</sup> Street, NW · 8<sup>th</sup> Floor  
Washington, DC 20001  
T 202.467.4900 · F 202.467.4949  
[childrenslawcenter.org](http://childrenslawcenter.org)

Testimony Before the District of Columbia Council  
Committee on Human Services  
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Budget Oversight Hearing, Proposed FY2020 Budget

Diana Sisson  
Senior Staff Attorney  
Children's Law Center

## **Introduction**

Good morning Chairperson Nadeau and members of the Committee. My name is Diana Sisson. I am Staff 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 nearly 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.

Thank you for the opportunity to testify today regarding the Mayor's proposed FY20 budget for the Department of Human Services (DHS). Children's Law Center clients come into contact with DHS in many ways, especially receiving services through the homeless services Continuum of Care and families applying for and receiving public benefits.

First, we strongly urge the Committee to reject the "Redetermining Homeless Services Eligibility Clarification Amendment Act of 2019" which would substantially diverge from past and present Department practice and law to greatly reduce the due process rights of families who are "redetermined" to be ineligible for shelter or housing programs, lowering those rights to far below those afforded to program participants terminated from programs for cause. This proposed change is not appropriate for consideration in the Budget Support Act because it is a policy question, not a budget

issue. At a minimum, a hearing should be scheduled to review this proposed change as regular legislation, if it is to be considered at all.

We also continue to urge the Council to continue on a multi-year project of “right-sizing” the Rapid Re-Housing program. During the FY19 budget cycle, Children’s Law Center testified about our concerns about the Department’s reliance on Rapid Re-Housing at the expense of local investment in Targeted Affordable Housing and Permanent Supportive Housing for Families, as well as the need for increased funding to the Emergency Rental Assistance Program (ERAP). We applaud that the FY20 proposed budget provides full funding for Permanent Supportive Housing for families, but continue to have major concerns about the lack of investment in Targeted Affordable Housing and support the re-allocation of funds from Rapid Re-Housing to fund this critical part of the homeless services continuum. We also urge the Committee to restore additional funding to ERAP.

Finally, we support the Department’s continued investment in customer service improvements for families seeking to access public benefits. As Children’s Law Center has testified in the past, we work extensively with clients who receive public benefits and have had multiple issues accessing services at the Service Centers. We continue to see repeated issues with the Economic Security Administration’s enrollment of newborns into the Medicaid program and with clients whose children are wrongfully

dropped from Medicaid, and our hope is that this investment will be used in part to correct this issue.

*I. The Committee should reject the “Redetermining Homeless Services Eligibility Clarification Amendment Act of 2019”*

We strongly urge the Committee to remove the “Redetermining Homeless Services Eligibility Clarification Amendment Act of 2019” from the Budget Support Act. This proposed amendment goes far beyond making a “clarification” to the existing law – it represents a substantial change to current Department practice by allowing only 48-hours, or the end of the next business day if later, for a family to appeal the end of their shelter or housing services if they have been “redetermined ineligible” as opposed to terminated from those services. This amendment undermines the good work this Committee did to ensure that due process rights were protected within the HSRA when DHS proposed to eliminate them, making the same proposal within the program exits section of the law, and now DHS seeks to bypass the proper legislative channels by going through the Budget Support Act.

We are fundamentally opposed to this major decrease in due process protection for families, especially when the Department had the opportunity to engage in a policy debate in 2017 about appropriate due process protections and did not propose this 48-hour timeline. The effect of this proposed change is a circumvention of Councilmember Nadeau’s enacted amendment to the Homeless Services Reform Amendment Act of 2017, which made program exits subject to fair hearing review by the Office of

Administrative Hearings (OAH)<sup>2,3</sup> and includes a 15 day window to request an appeal and maintain benefits pending a hearing.

As a substantive policy change, the amendment does not properly belong in the Budget Support Act. But beyond this, this decrease in due process is deeply troubling. The HSRA does include one type of appeal with a 48-hour appeal with benefits pending a Fair Hearing timeline where an interim eligibility placement into shelter is being ended.<sup>4</sup> These placements are intended to be for 3 days and generally are capped at 12 days.<sup>5</sup>

By contrast, a “redetermination of eligibility” could happen months or even years into a family’s participation in a shelter or housing program, meaning a family faces a far greater upheaval than if they had only been in shelter for 3 days. Loss of shelter or housing services means a family has to consider how children will get to school, where belongings will go, how they will continue to make it to work, and where they will go next – adding a ticking 48-hour clock onto that is damaging and unrealistic for vulnerable families.

While the Department’s justification for this proposed amendment is that it is needed to quickly exit families from shelter when it has been determined that they are not using shelter hotel rooms and thus have been “redetermined” to be no longer eligible for shelter as they have access to other housing.<sup>6</sup> However, nothing in the proposed amendment would limit the power of the Department to only use this

provision in such a narrow circumstance. The plain text of the proposed amendment states it can apply to a “shelter or housing program.”<sup>7</sup>

This broad overreach is another reason to strip the provision from the Budget Support Act. This is not a technical change appropriate for the BSA, but rather a major policy change that should not be done in this context. For this reason alone, it should be rejected. If the Department wants to engage in a policy debate about whether all or specific types of redeterminations of eligibility determinations should be subject to a 48-hour appeal timeline, they should and can propose this amendment as regular legislation.

**II. *Reallocate funding from Rapid Re-Housing to fund Targeted Affordable Housing vouchers for families***

For FY19, we urged the Committee to provide more funding for Targeted Affordable Housing and to begin a multi-year move away from the Department’s overreliance on Rapid Re-Housing. Last year, the Committee, and subsequently the Council, made the start of pushing in the right direction by reallocating \$6.6 million (before adding back \$1 million in one-time funds) from Rapid Re-Housing towards new Targeted Affordable Housing and Permanent Supportive Housing vouchers for families.

This Committee held a Public Oversight Roundtable on Rapid Re-Housing in December 2017, where we raised concerns about widespread housing conditions issues

families were experiencing in Rapid Re-Housing, including lack of working heat all winter, such severe mold and moisture that a wall partially collapsed, and multiple program participants living in units that were legally too small to house their families. Even with the District of Columbia Housing Authority providing initial inspections for units, Children's Law Center has continued to field calls and represent clients in Rapid Re-Housing who, instead of being able to use their limited time in the program to work on goals such as education and housing, are referred to us by their child's pediatrician after their children become sick or their health is endangered because of their living conditions. These families spend months dealing with issues like insect infestations that ruin their furniture (which they lack the funds to replace), rodent infestations, and repeated flooding in their units. In one recent and egregious referral from a pediatrician, the family of a six month old with multiple hospitalizations for asthma by the terrible mold and infestation in a Rapid Re-Housing unit was exited from the program for hitting the time limit and told by a caseworker not to bother appealing this decision, after having received no assistance with getting their landlord to make repairs or to find other, safer housing.

The mental load to these families of living in housing that threatens their children's health, and the effort needed to constantly request repairs, wait for maintenance that never comes, and report these problems to caseworkers only to see no or ineffective follow-up from then can be immense, and erodes trust in the program and

Department. This trust is further broken when families reach the end of their program assistance but are unable to afford their rent. Echoing concerns we raised about the FY19 budget, the Department's most recent oversight data again support our concern that families cannot afford their rent and are largely reliant on permanent programs to ultimately leave homelessness permanently.<sup>8</sup>

Unfortunately, we often have to counsel these families that they have few options for improving their housing situation, other than to stay in their unit until they are evicted for owing rent, or to return to shelter. There are simply not enough options funded on the backend of Rapid Re-housing for all of the families that need them.

Given the damaging impact of eviction on families and children, both financially and mentally, and the negative experiences many of our clients have had attempting to access services through the Virginia Williams Family Resource Center, this reality is devastating.

While we acknowledge that for a small number of families, and when used as a small component of a spectrum of interventions, Rapid Re-Housing can work,<sup>9 10</sup> for most of the families we work with, this is not a program that is ultimately helping them. While we want this small subset of families to be able to access the program, at a level funded to allow them to rent good quality housing that is in compliance with the DC Housing Code, and to receive high-quality case management services and supports during their time in the program, it is not an appropriate blanket approach. Continuing



the multi-year process of right-sizing Rapid Re-Housing will allow families in higher need to transition to Targeted Affordable Housing and Permanent Supportive Housing services that are actually funded, leading to permanent and stable solutions for families.

For FY20, we ask the Committee to continue to “right-size” Rapid Re-Housing by reallocating any proposed increases to Rapid Re-Housing as well as a portion of the existing Rapid Re-Housing budget towards Targeted Affordable Housing vouchers. We also ask the Committee to approve of the Department’s proposed full funding for Permanent Supportive Housing for families, which is already included in the proposed budget.

Specifically, we propose that the Committee reallocate the proposed \$3 million increase in one-time funds that the Mayor is seeking for Rapid Re-Housing in FY20 towards Targeted Affordable Housing vouchers.<sup>11</sup> Additionally, we propose that the Committee and Council reallocate an additional \$3.7 million from the Rapid Re-Housing program towards Targeted Affordable Housing vouchers that can be accessed by families in Rapid Re-Housing and shelter. In this proposal, we are joined by Bread for the City, Law Students in Court, Legal Aid Society of the District of Columbia, and the Washington Legal Clinic for the Homeless.

We believe this proposal would fund a net increase of Targeted Affordable Housing units created versus units of Rapid Re-Housing cut, even accounting for what the Department says are increased program costs. Our intent would certainly be that no

families are prematurely exited from Rapid Re-Housing due to these cuts, but rather, families leave Rapid Re-Housing as they are transitioned to Targeted Affordable Housing vouchers. This, along with fewer families entering shelter per the Department,<sup>12</sup> allows for a natural shrinking of the Rapid Re-Housing program while still allowing Rapid Re-Housing to function and serve existing families in the program in the face of increased program costs. We would also argue that the increasing cost of Rapid Re-Housing is another reason to support the further funding of the more cost-effective Targeted Affordable Housing program.

***III. Funding for the Emergency Rental Assistance Program (ERAP) must be restored and increased beyond proposed FY20 budget***

The proposed budget also includes a \$620,000 cut to ERAP funding. Cuts to ERAP have been compounding, with major cuts made in FY18 (when this Committee noted that the program was already arguably underfunded<sup>13</sup>) and FY19 funding ultimately in line with that FY18 funding. While this Committee reversed a proposed reduction to ERAP and restored additional funding for FY19, the program continues to be chronically underfunded in relation to the great need for this unique program. For FY20, we urge the Committee and Council to restore this \$620,000 in critical funding for ERAP in the FY20 budget.

We know from working with our clients that there is tremendous competition for ERAP funds, with funding regularly exhausted by the end of the fiscal year. This leaves families waiting months hoping they will be able to access funds later in the year to

avert a housing crisis, or spending months looking for healthier housing only to have it fall through because they are unable to secure an ERAP appointment for security deposit assistance. While we believe the Department's homeless prevention programs do provide valuable services for some families, they are not a replacement or substitute for ERAP nor have we been provided any data to justify such a substantial increase in prevention while at the same time cutting ERAP—a program which also prevents homelessness by preventing eviction.

When families are able to secure access to this already limited resource, ERAP allows many families, elderly residents, and people with disabilities to get help before having the stigma of an eviction judgment issued against them, protecting not only their housing but also their credit and ability to rent for years into the future. This is a unique aspect of ERAP. Preventing eviction and displacement minimizes the well-documented traumatic impact of these events on children's emotional and physical health. Frequent moves can cause children to miss school more frequently, are correlated with poor social development for children of all ages and make it harder for children with chronic medical conditions to receive the regular care they need, leading to costly emergency care and long-term health crises.<sup>14</sup> Imminent eviction can also cause toxic stress for both parents and children, and for children this can actually disrupt the brain's physical development.<sup>15</sup> For young children, the lifelong public health costs of

toxic stress are enormous, and we know that investment in interventions to mitigate the effects of that stress can generate large and enduring economic returns.<sup>16</sup>

We are very concerned that yet another cut in funding for ERAP, a program which already does not have full funding to meet the actual need, will lead to District families experiencing more displacement and evictions and the trauma associated with them, as well as increased risk of becoming homeless. In the time of an affordable housing crisis, it is not time to further shrink this safety net.

***IV. The Council should continue to fund the Department's investment in improvements in customer service given continued issues with processing Medicaid applications***

While we appreciate the investment and effort that the Department has made previously in the FY19, and now in the FY20 budget to address the need for improved customer service and benefits processing, Children's Law Center continues to receive a notable number of referrals from medical partners for newborns who are not properly enrolled in Medicaid. In one recent referral, it took a mother over six months to finally get her newborn into Medicaid even though she and her other two children were on DC Medicaid when the child was born in a DC hospital—and she is still receiving bills for his birth and early pediatrician's appointments months later. These delays discourage new parents from seeking important newborn medical care and from obtaining needed medications. In addition, we still get regular referrals for families where one child is mysteriously dropped from the family's Medicaid case while the other children and

parent remain on the case when the family goes to recertify. The Service Centers can and must do better, and we hope that DHS will continue to focus on these improvements.

## Conclusion

Thank you for the opportunity to testify about the proposed FY19 budget.

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<sup>1</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 more than 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>2</sup> The legislative history, including comments and documentation provided by the administration, shows that DHS did not propose or discuss having a 48-hour appeal timeline applied to redetermining eligibility determinations over the course of the 2017 HSRA’s journey to becoming a law.

<sup>3</sup> Amendment #1, Nov. 7, 2017, available at <http://lims.dccouncil.us/Download/38138/B22-0293-Amendment1.pdf>.

<sup>4</sup> Or close of the next business day, whichever is later.

<sup>5</sup> DC Code 4-753.02(c-1)(1).

<sup>6</sup> Per an information sheet created by the Department of Human Services, “Redetermining Homeless Services Eligibility Clarification Amendment Act of 2019,” undated.

<sup>7</sup> B23-0209, Fiscal Year 2020 Budget Support Act of 2019, §5042(b)(2)

<sup>8</sup> See DHS 2019 Oversight Pre-Hearing Questions with Responses at 71, including data that 31% of program participants were enrolled in TANF for the entire time they were in FRSP, despite average *subsidized* rent (thus the amount paid by the program, not the entire market rent) for families is \$1,152, well above the TANF benefit amount.

<sup>9</sup> According to the US Department of Housing and Urban Development (“HUD”) and the US Interagency Council on Homelessness, Rapid Re-Housing funds and services are intended for “households who have barriers to housing, but who are likely to sustain housing after the subsidy ends.” Department of Housing and Urban Development. See *Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009*, at 26. [https://www.hudexchange.info/resources/documents/HPRP\\_Notice\\_3-19-09.pdf](https://www.hudexchange.info/resources/documents/HPRP_Notice_3-19-09.pdf)

<sup>10</sup> “Program participants who require longer-term housing assistance and services should be directed to programs that can provide the requisite services and financial assistance.” *Id.*

<sup>11</sup> We propose these numbers with the caveat that they are the best estimate we can get with the opaqueness of the DHS budget about the true program costs for Rapid Re-Housing. Even with this proposed cut and the increased cost of Rapid Re-Housing per the Department, we believe that a net number of TAH vouchers will be created, and our intent is that the final budget will ensure a net gain of TAH vouchers over Rapid Re-Housing units lost due to funding cuts.

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<sup>12</sup> See Testimony of Director Laura Zeilinger, Fiscal Year 2018-2019 Performance Oversight Hearing, March 1, 2019, Available at <http://lims.dccouncil.us/Download/42172/HR23-0025-HearingRecord.pdf>, citing a 26% decrease in entries to family shelter from FY17 to FY18.

<sup>13</sup> Committee on Human Services. *Report and Recommendations of the Committee on Human Services on the Fiscal Year 2018 Budget for Agencies Under Its Purview*, at 46. (May 17, 2017). Retrieved from <http://dccouncil.us/budget/2018>

<sup>14</sup> Reid KS, Vittinghoff E, Kushel MB. *Association between the level of housing instability, economic standing and health care access: a meta-regression*. Nov. 2008

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*