



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 afternoon Chairperson Nadeau and members of the Committee on Human Services. Thank you for the opportunity to testify regarding the Department of Human Services (DHS). My name is Kathy Zeisel and I am a DC resident and a Senior Supervising Attorney at Children's Law Center, which fights so every DC child can grow up with a stable 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.

As in prior years, the focus of my testimony will be Family Rapid Rehousing and the permanent housing programs available for families through the Department of Human Services. I have had the opportunity to observe the rapid rehousing program not only through the many clients we have worked with at Children's Law Center, but also as a member of the FRSP Task Force and Advisory Board. Before I get into the content of my testimony, I want to note that it was quite challenging to prepare for today because DHS released their oversight answers less than two days before the hearing rather than at the Committee deadline. We hope that this Committee will consider bringing DHS back if further follow up is required after you have a chance to more completely review their answers.

**Office of Inspector General Report and Recommendations**

**Should be Followed and Expanded Upon**

I first want to address the January 2022 Office of Inspector General report on rapid rehousing, which addressed some of the concerns that participants and advocates have long raised about the program.

Case Management Must be Assignment More Quickly and Must be More Effective

First, with respect to case management, the report addressed the issue of the long gap in assigning case managers and recommended that DHS create a policy that The Community Partnership (TCP) require the assignment of case managers and expand capacity.<sup>i</sup> DHS accepted this recommendation,<sup>ii</sup> and we hope this comes to fruition quickly so that participants can access meaningful case management.

The OIG report also highlighted problems with case management, specifically that family budgets are not completed monthly.<sup>iii</sup> In addition to this, we remain concerned, as we have been in years past, that case managers change with a high level of frequency, making case management less effective during the program. We observe that this results in clients getting extremely inconsistent services, applications for permanent housing being lost or not completed, and lack of support for serious housing conditions in their homes. We continue to believe that mandatory case management in rapid rehousing is inconsistent with national best practices and represents biased ideas about what people in the program need. It would be far better to offer a housing first model with a variety of services and allow participants to engage in voluntary services.

Rent Payment Standard is Applied Inconsistently within FRSP, Denying Due Process Rights, and Inconsistently Between Individual and Family Rapid Rehousing

Even more critically, the OIG report highlighted problems that our clients have long reported, namely that there is no consistency in how the 40-60% of the rent standard is applied. The OIG report found that participants should be moved up from the 40% rent standard if their family budget and income warranted, but the report specifically stated, “Many of the participants who moved to a higher payment tier did so despite budgets indicating they had not increased income or were running deficits in the prior month.”<sup>iv</sup> In all of these years of FRSP, there has been no transparency about how the rent standard is applied and it has not been applied fairly to participants.

We believe first that the standard is too high, we ask participants in virtually all other housing programs to pay 30% of their income at most,<sup>v</sup> and there are good reasons to suggest we should not even ask that if we are trying to set families up for the highest level of success after the program. In individual rapid rehousing, the standard 30% income payment standard is applied, including if individuals have no income, they have no rent burden.<sup>vi</sup> There is no good policy reason, and it is potentially even discrimination based on family status, to treat families differently.

Second, even if the payment standard remains the same, it is a fundamental denial of due process and fairness to allow case managers to arbitrarily decide how much a family should pay without clear guidelines and without an appeals process for

the family. This is one of the only programs in which a person is required to pay money and they cannot appeal a determination of how much they owe if they believe it is wrong. OIG states that such an appeal process is necessary even when DHS states that it would be an administrative burden.<sup>vii</sup>

### DHS is Unable to Properly Monitor FRSP

OIG also identified several ways in which DHS is unable to monitor FRSP properly, both between DHS and DCHA or within DHS due to failure to have IT systems that talk to each other.<sup>viii</sup> We recently had a client who was approved for a voucher, but was unable to provide the needed paperwork to DHS because she had lost paperwork after a fire in her unit. She knew DHS had the paperwork she needed from her recertifications for her childcare voucher and TANF, but her case manager could not help her obtain it. With our assistance, she contacted ESA, but was told that because they were working remotely, they could not access the document she needed and she would have to obtain a copy herself. Remember, she just needed this paperwork from DHS to provide to DHS, and it was in their computers, but due to remote work, they could not get it for her and were telling her to go to go to the Social Security Administration, which is also closed to in person visits, to obtain it. We were able to reach out higher up at DHS to try get it worked out, but it cannot be the case that someone needs a lawyer to get one part of DHS to provide paperwork for a voucher through another part of DHS.

All that is to say, we strongly agree that DHS must find a way to better way communicate within DHS systems, including its contractors, and with DCHA to ensure that the relevant paperwork, rent payments, and other information can be easily shared and monitored.

DHS Accepts All Families, Regardless of Likelihood of Ability to Afford Housing at the

End of the Program

Finally, the OIG report addressed that the FRSP program accepts all families regardless of whether they meet the requirements of the program or not.<sup>ix</sup> This has long been a concern of advocates and has led both to the growth of the program and to families who cannot afford the rent at the end of the program. By DHS' own data, 66% of families in FY22 and 74% of families in FY21 have TANF and in FY21 5% and in FY22 4% had a head of household with SSI/SSDI as their main source of income.<sup>x</sup> DHS provided data about whether income increased for exiting families in FY21 and 22, and it shows that even though some families marginally increased their income, the average income on exit was still only \$867 in in FY21 and \$852 in FY22.<sup>xi</sup> In FY21 the rent burden for families at exit was an average of 289% of income and in FY22 it was an average of 350% of income, meaning that most families could not afford the rent at exit from rapid rehousing no matter how much they worked on a family budget<sup>xii</sup>

In its Oversight Answers, DHS states that the goal of case management remains the same, "broadly speaking, increasing income while maintaining housing stability"

and that it costs \$863/month/family to provide these services.<sup>xiii</sup> Yet, it is clear we are setting up these case managers to fail because we are not providing families a long enough time to really meaningfully increase their income and families are not, in fact, increasing their income significantly. We ask the Council to examine whether this is really the best way to spend this money.

FRSP cannot and should be the only program offered to families in the District as they exit shelter. We agree with OIG's recommendation that participants should be screened earlier for permanent housing programs, but it is necessary that DHS also publish regulations, specifically for TAH, and issue denial notices when participants are not selected for any program so that they can appeal denials.<sup>xiv</sup>

The Oversight Answers for the first time provide the TAH guidance that DHS has been giving to providers and it is problematic in numerous ways. To highlight a few, there is a six month DC residency requirement and it states that applicants are ineligible if they have any open court case.<sup>xv</sup> The court case requirement is not a correct DCHA requirement, and may be unconstitutional as a requirement.

**DHS does not adequately address serious housing conditions in units  
or manage the transfer process**

I would like to turn now to the issue of housing conditions that our clients live in. Virtually all of our contact with Rapid Rehousing participants comes because the family is referred to us by a medical partner at Children's National, Unity Health Care,

or Mary's Center because the housing conditions are impacting the child's health. It is only once we do the intake that we learn the family has rapid rehousing, but we find that many of our worst housing conditions cases are in units subsidized by rapid rehousing. When I read DHS' oversight responses this year, there was a real disconnect with the process described and what we see on the ground.

Even in considering the process described on its face, DHS states that it will put a participant in a shelter when it warrants it, allowing the landlord to abdicate all responsibility for housing the tenant.<sup>xvi</sup> We urge DHS to reframe its processes and really require that the landlords it works with be held responsible for repairs and for providing alternative habitable accommodations, typically a hotel, for tenants. Too often we see that once the landlord is not responsible for the alternative accommodations, repairs are not made, and the landlord has successfully constructively evicted the tenant without the need to go to court. By facilitating a shelter placement as the first resort, DHS only makes this easier for landlords. Additionally, the oversight document refers to a DCHA inspection when issues are reported. This has not been our experience in cases, even where we have been litigating them in housing conditions court for an extended period of time and the conditions are extremely serious.

We would also request that DHS amend the processes referred to the Oversight Answers that are supposed to help deal with conditions issues to ensure that the participant receive a copy of all inspection reports so that they can best assess whether



they want to move forward with renting the unit initially and so they can understand what DHS or the case manager is doing along the way. It is not stated that this is the current requirement of the process.<sup>xvii</sup>

The Oversight Answers quantified a problem that we see in practice frequently. Even if a client is able to get a transfer approved due to the severity of the housing conditions, the majority of families are ultimately unable to move. In FY21, only 91 of the 189 families approved for a transfer due to housing conditions were able to move and in FY22 only 20 of the 71 have been able to move.<sup>xviii</sup> It is not clear if DHS needs additional housing coordinators or needs to prioritize these families to work with the housing coordinators, but something has gone wrong when we acknowledge that these families are living in unhealthy and unsafe housing and they just stay there.

Additionally, there should be coordination with DCRA (soon to be the Department of Buildings) and potentially with OAG, if there are repeat offender landlords, to get conditions fixed in these units.

A major flaw in the Housing Quality Standards inspections that are done at lease up is that they are visual inspections. So, a landlord can essentially paint over the unit and make it look good and it will likely pass inspection. However, if DHS has actual knowledge of problems in the unit, it should be ensuring that necessary repairs have been made and not simply pretending that it is an unknown or new unit. DHS acknowledges that it does not currently track whether units are re-rented by other

participants.<sup>xix</sup> While DHS may not be able to prevent a landlord from renting a unit, they do not need to steer tenants there or provide the building on their list to residents living in shelter. DHS could also make information available to participants about where housing conditions issues have been found so that participants have full information about the units they are renting.

### **Concern about Current and Upcoming Terminations from Rapid Rehousing**

Last year, the Council made a historic investment in permanent housing in the District through PSH and TAH. Yet, the lack of transparency about Rapid Rehousing is threatening to swallow those advances whole as DC prepares to terminate over 600 families from the program this winter and spring.<sup>xx</sup> Each year for the past several years, DHS has requested funding for only a little over 1000 families in the FRSP program,<sup>xxi</sup> yet DHS has managed to serve over 3000 families last year and over 2000 families the year before without fully disclosing how the money was found to serve those families. Now, DHS is claiming these terminations are a budgetary necessity, and it is impossible to determine whether that is true or not because we cannot tell how FRSP was really funded in prior years. We are also unsure how the housing resources from the Council are being deployed by DHS to families and whether they will be given to families so they can be used this year.<sup>xxii</sup>

These terminations represent a difference in views of the purpose and outcomes of FRSP. DHS has long represented that FRSP is needed to keep flow in the homeless

system and we should look at it only in that context. In contrast, we, along with other advocates, ask the Council and DHS to think more broadly. Many of these families have been in FRSP multiple times because they cannot afford to remain housed in DC, and if we want to avoid multiple periods of homelessness for families, then we should be thinking about how we can make a better system and not simply how we can move people through shelter and FRSP as quickly as possible even though we know at least 90% of families will be unable to succeed at the end of FRSP.

I want to address the data that DHS provided about re-entering shelter within the Oversight Answers briefly, as it raises questions while it attempts to answer others. I want to acknowledge this was a particularly difficult time period to study because of the eviction moratorium and the stay on program exits. Most commonly, rapid rehousing participants only become shelter-eligible when they are evicted from their unit after the subsidy terminates. Since neither program exits nor evictions have been happening for almost two years, it is an odd time to be looking at data. However, there is also a data point that is missing from the measurements, and that is families who entered back into rapid rehousing through the HPP program within 12-24 months. Families are not required to go to shelter to go back into rapid rehousing, and many may be found ineligible for shelter because they are “currently housed” even if not paying the rent. They may instead be offered another stay in rapid rehousing. It is not clear that those numbers are included here.<sup>xxiii</sup>

Turning to the current terminations, DHS represented that 282 families who have received notices of termination were already screened for permanent housing resources and found not eligible. We know that very few of those families appealed, and we are concerned about this. We are aware that the Office of Administrative Hearings was very short staffed during the period that the appeals would have needed to be filed for pending benefits (in November, December, and early January). Calls to OAH to file appeals during this period led to often callers being transferred to the clerk for appeals and having the call dropped or often finding the voicemail full. We had reports of not being able to successfully file an appeal by phone for several days in a row. Given these issues, we recommend that the notices be reissued to any participant who has not filed an appeal with information about how to file by both phone and email, that the notices clearly state these are being reissued and that this is the only opportunity to file an appeal. These elements should also be included in all future notices of cessation.

We also want to raise the question of whether OAH is adequately staffed for these termination hearings and whether they may need additional staffing given the large number of terminations expected this year.

Of the families we are working with who appealed, we believe most, if not all, should qualify for one of the permanent housing resources. Many of them report they do not know if they were screened for resources, and some have already been found

eligible during the course of the appeals process. I would like to share two stories of families we work with who have faced many of these issues.

One family is Ms. X. She, her husband, and their children entered rapid rehousing in July of 2019 and got a case manager in October. Initially, they were on a good path, but the pandemic hit, and then her husband was in a tragic accident that left him permanently disabled and he now uses a wheelchair for mobility. This has been incredibly stressful and traumatic for the entire family. We were referred the case because of the terrible conditions in the unit, which included mold that was so severe it was triggering asthma exacerbations in both the six year old and Mr. X—causing Mr. X to have to go to the ER frequently for his asthma. There was also a significant mouse infestation. The family spent a year battling their landlord about the housing conditions in court while also working to heal Mr. X and the entire family from the physical and mental trauma of his accident and manage his new permanent disability. Ms. X also has trauma and is only able to maintain very part time employment. Yet, they were not found eligible for any permanent housing resources and received a notice of cessation in December. We are currently in the appeals process with them.

Another family is Ms. K and her children. Ms. K lives with her four children in rapid rehousing, this is her second time in rapid rehousing, and she has had serious issues with water intrusion and mold throughout the unit since she moved into the unit—every time it rains, water comes into the unit and then mold grows even more.

All four of her children have asthma, which was exacerbated by the mold, leading a hospital trip for one of them. While she was eventually approved for relocation, she had no assistance in searching for a new place and was unable to relocate prior to receiving a notice of cessation. The notice of cessation has actually had to be reissued 3 times within a few weeks due to typographical errors in the NOCs—thankfully she is represented so we can help her keep re-appealing it, but another participant might not understand that a new appeal is needed each time. We initially had issues helping her file appeal as well because of the issues with the OAH phone lines. She was provided a notice of cessation because DHS determined her not eligible for a housing program, but once we appealed, she was found eligible for DC Flex and invited to apply.

Our concern is that it is likely that many more of the families that did not appeal may also be eligible and we will not know. We ask that DHS re-review each of these families prior to re-issuing the notices of cessation.

For the next over 600 terminations, we ask that DHS also revisit whether these families are eligible given the errors we are already seeing. In addition, we ask that any notices of cessation that are issued contain plain language that this means their subsidy will end on X date, that they must appeal within 15 days of receiving this notice to continue their subsidy while the appeal is pending (even if they are verbally told something different), and include all methods of filing at OAH on the notice. We are

also concerned that by the time these families reach their termination dates, there will be few housing resources or ERAP resources left for them to access.

While we are asking for specific ways to make this termination process better if it must go forward for families, we believe that the best course of action would be to stop terminations for the rest of this fiscal year while DHS deploys the housing resources available to it, releases regulations for TAH and goes through the public comment period on those regulations, and then has time to meaningfully determine which families qualify for the programs.

### **DHS Did Not Utilize Opportunity to Rethink Rapid Rehousing**

DHS had a unique opportunity during the pandemic to rethink rapid rehousing and come up with a better way of running the program and of supporting homeless and at-risk of homelessness families in the District. I and others agreed to be part of the FRSP Task Force and the Advisory Group in the hopes of working on that. Instead, we have been asked to give extensive feedback on a client satisfaction survey, and have not been given the opportunity to really discuss how the pandemic should impact the recommendations of the Task Force, that DHS is declining to meaningfully implement some of the most significant recommendations of the Task Force, or to actually rethink the program. We are instead reverting to a rapid rehousing program with stricter enforcement of time limits than pre-pandemic in a world where the participants are likely to have an harder time finding employment, where we know the participants are

most likely to have been impacted by COVID and to be impacted by COVID, and that they simply cannot afford the rent in DC according to DHS' own numbers.

### **DC Alliance Should be Permanently Fixed**

I want to turn briefly to DC Alliance. We stand with our partner organizations in thanking the Council for its work so far on the issue, but asking for a permanent solution. The Council has tried to temporarily fix the problem of DC Alliance members having to recertify twice annually with varying success. The budget of this program should not depend on DC residents losing their health insurance for failing to have an unnecessary twice yearly recertification, and imposing this barrier is simply a form of structural racism by placing this barrier on immigrants and returning citizens who are almost entirely Black and Brown DC residents. DC can and must do better to ensure that all our residents have access to health insurance, especially in light of the health inequities made even greater by the pandemic.

### **Conclusion**

We look forward to continuing to work with DHS and with this Committee to improve how we serve homeless and housing insecure families in DC to ensure they can access the best possible resources DC can offer. Thank you for the opportunity to testify today.

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<sup>i</sup> DC Office of the Inspector General, OIG Project No. 22 -I-01JA, "Department of Human Services: Evaluation of the District of Columbia Family Re-Housing and Stabilization Program", January 2022, p9-11.



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- ii Id.
- iii Id. at 10-11.
- iv Id. at 15.
- v Tenants in LRSP, TAH, PSH, and HCVP all pay 30% of their income towards rent.
- vi DHS FY21-YTD22 Oversight Responses, p103.
- vii DC Office of the Inspector General, OIG Project No. 22 -I-01JA, “Department of Human Services: Evaluation of the District of Columbia Family Re-Housing and Stabilization Program”, January 2022, at 15-16.
- viii Id. at 18-19.
- ix Id. at 21.
- x DHS FY21-YTD22 Oversight Answers, Q70b-c, p87. Importantly, this does not capture families who have child SSI as a main source of income, overlooking families with disabled children who may not qualify for TANF.
- xi DHS FY21-YTD22 Oversight Answers, p91-92. This data is hard to interpret because DHS did not exit families during this period, so it is unclear why these families exited the program. However, it is consistent with the data from prior to the pandemic which showed that 90% of families who were exited from the program did not increase their income, and those that did only increased it by an average of \$50 per month to a level below that needed to rent independently. DHS 2021 Oversight Answers, p89.
- xii DHS FY21-YTD22 Oversight Answers, p105.
- xiii DHS FY21-YTD22 Oversight Answers, p101-102.
- xiv DHS has not only failed to publish regulations on TAH. The DHS FY21-YTD22 Oversight Answers (attachment 95) are the first time that DHS has publicly released any written guidelines on TAH standards in spite of many years of requests to do so by the FRSP Task Force and Advisory Board members.
- xv DHS FY21-YTD22 Oversight Responses, Attachment 95.
- xvi DHS FY21-YTD22 Oversight Responses, p99.
- xvii Id. at 97-99.
- xviii Id. at 100.
- xix Id. at 101.
- xx At the February 9, 2022 FRSP Advisory Board Meeting, DHS provided a presentation indicating that although the numbers are not final, the current plan is to exit approximately 630 additional families from rapid rehousing this spring. These are families who have been in the program 12 months or longer and who they deem ineligible for TAH, PSH, or DC Flex. At that meeting, DHS again declined to share the written criterion for TAH.
- xxi Per the FY22 Budget, the FY20 budget was \$40,806,000. the FY21 budget was \$32,090,000 and the FY22 proposed budget was \$32,192,000. Yet, the OIG report notes, “The budget for FRSP has increased from \$34 million in FY 2018 to \$82 million in FY 2021. The number of families served has expanded from approximately 1,400 in FY 2018 to approximately 2,900 in FY 2021.” P8 The DHS FY21-YTD22 Oversight Answers (p85) state that the total funding for the family rapid rehousing program is \$28.9 million, but this is inconsistent with the OIG report from last month. The inconsistency in what is actually spend versus what is asked for in the annual budget is hard to explain, and does put pressure on the system to prematurely force families out when everyone agrees they have no chance of affording housing on their own.
- xxii Although the money can roll over into next year, it would be terrible to exit families without a housing resource when we have them available this year.

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<sup>xxiii</sup> Id. at 106. The Answers do indicate that 788 of 1,194 families in FY21 in the Prevention program were placed directly into Rapid Rehousing, but that does not tell us how many were previously in Rapid Rehousing. Id. at 145.