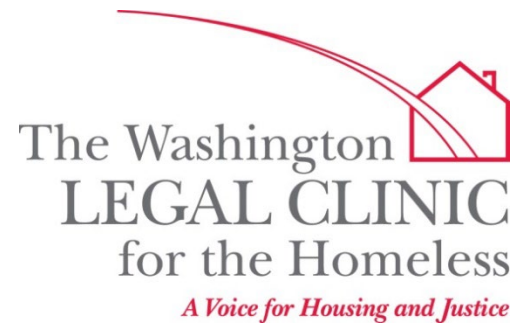


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**Testimony before the DC Council Committee on Human Services  
Performance Oversight Hearing on the DC Department of Human Services (DHS)  
Amber W. Harding  
Written Testimony, March 3, 2022**

The Legal Clinic envisions – and since 1987 has worked towards – a just and inclusive community for all residents of the District of Columbia, where housing is a human right and where every individual and family has equal access to the resources they need to thrive.

**Rapid Re-housing for Families**

In August, the DC Council approved a budget with over 1700 federal and local housing resources specifically for homeless families, in part to prevent families in rapid re-housing from falling off a benefits cliff when time limit terminations started up again. Yet DHS is set to exit 913 rapid re-housing families for reaching a time limit this year. (The exits will be rolling: 282 families in the next two months, 259 families by the end of August, and 372 families by the end of September.)

DHS says they have to terminate 913/3400 families, 90% of whom they admit cannot afford rent after termination, because they do not have enough money. But that is a problem entirely of their own making. DHS requested a FY22 rapid re-housing budget of \$32.191 million, which would have served only 1005 families. DHS then submitted a revised budget of \$51.65 million, which still only supports 1614 families in the program. Even with historic housing interventions, DHS chose to significantly under-fund rapid re-housing. When faced with another choice-- request more money or terminate a large number of families— DHS chose termination.

(This isn't the first year DHS has underfunded rapid re-housing—the agency has requested less funding than the program costs for many years. Sometimes it balances the budget by cutting families off of assistance before they can handle the rent on their own. Sometimes it balances the budget by taking money from other programs to fill the hole. Neither approach is good policy, and both evade real accountability and oversight.)

When faced with a financial and human crisis of this magnitude, we must both bail out the program and reform it. We must bail out the program because 913 families will otherwise lose their housing. We must reform the program because otherwise next year will bring another 1000 families in crisis.

The stated goals of the rapid re-housing program are to: 1) move families quickly into housing from shelter; 2) increase family income;<sup>1</sup> and 3) achieve stability in permanent housing, including past the time of assistance.<sup>2</sup> With the data DHS has provided to the Committee, we can assess the success of rapid re-housing based on its stated goals.

**Goal 1: To move families out of shelter quickly into housing**

We can concede that average shelter stays have gone down as rapid re-housing has grown. However, landlords are very reluctant to rent to applicants in rapid re-housing. It may be that this goal could be reached more easily with permanent housing subsidies.

**Goal 2: To increase participants' income**

Rapid re-housing is not a program that substantially increases incomes. In FY21, the average income at entry was \$867 per month.<sup>3</sup> At exit, the average income was \$906—an increase of only \$39 a month, or 4.5%.<sup>4</sup> Only 26% of families had any increase in income.<sup>5</sup> Contrast that with the amount of money DC is paying case managers to increase family income—\$863/month per family.<sup>6</sup> By any standard, DC residents are getting a terrible return on their tax dollars. If DC diverted the money it pays for case management into a direct payment to families, the average incomes of families would *double*.

**Goal: To achieve housing stability past the time of assistance**

The overwhelming majority of families cannot maintain housing stability after the time-limited assistance ends. The average income at exit for families is \$906/month, but the average rent for a one bedroom, the least expensive apartment a family probably rents, is \$1400.<sup>7</sup> The average rent burden at exit is 289%-- which means the rent is nearly three times the family's total income.<sup>8</sup> DHS has stated that 90% of the families they plan to exit this year cannot afford rent without additional assistance. There is no credible argument that rapid re-housing leads to long-term housing stability

For years, DHS has tried to claim that the way to measure success in rapid re-housing is not by assessing how well the program meets the aforementioned goals, but by looking at how many families re-enter shelter after being in rapid re-housing. We have always said that that cannot be the only goal the program sets out to achieve—because there is tremendous harm that can happen to families beyond shelter stays. We are relieved to finally be on the same page as DHS on this core issue. When this Committee asked DHS to state which of these unstable housing outcomes that are

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<sup>1</sup> Answer to question 88 (the goal of case management is “increasing income while maintaining housing stability”): <https://dccouncil.us/wp-content/uploads/2022/02/DHS-FY21-22-Performance-Pre-Hearing-Responses.pdf>.

<sup>2</sup> The goals of rapid re-housing are to help households “move as quickly as possible into permanent housing and achieve stability in permanent housing such that recipients may remain in the housing when assistance ends.” DC Code §4-753.01(31A); See also 29 DCMR §7800.1 (“The purpose of the Family Re-Housing and Stabilization Program is to support District residents, who are experiencing homelessness or at imminent risk of experiencing homelessness, to achieve stability in permanent housing...”)

<sup>3</sup> Answer to question 72.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Answer to question 86.

<sup>7</sup> Answer to question 69d.

<sup>8</sup> Answer to question 91d.

not re-entry into shelter are considered successful outcomes of rapid re-housing, DHS responds: “At the core of DHS’s values and mission is the well-being of families. This line of questions implies that DHS would consider any non-return to shelter a success without regard for harms that families may experience. DHS is not myopic and does not ever consider evictions, overcrowding, being subject to violence and abuse, or further instability as measures of success.”<sup>9</sup>

Rapid re-housing for families is a purposely under-funded, wasteful, and harmful program that fails to meet any of its goals. It is so broken that even funding historic levels of permanent housing did not resolve its core, inescapable flaw— an arbitrary time limit for housing that is inhumane and untenable. We recommend that: 1) the Mayor bail out the program with surplus dollars one last time to prevent trauma to over 900 families and 2) the Council amend the Homeless Services Reform Act to prevent this from happening again.

Recommended language:

(g) Section 22b of the Homeless Services Reform Act of 2005, effective February 28, 2018 (D.C. Law 22-65; D.C. Official Code § 4-754.36b), is amended by adding a new subsection (e) to read as follows:

“(e) A provider may exit a client pursuant to this section only if the Mayor determines that the client has a reasonable likelihood of sustaining housing stability independently of the rapid re-housing program. Such a determination shall be based on the client’s rent burden at the time of program exit, the client’s job stability and income, and other factors known to cause housing instability.”

### **Rapid Re-housing for Individuals**

Our office has begun to see termination cases for rapid re-housing for individuals, and we share many of the concerns about that program that we do for the family version. The program is much smaller, and there is less data on it, but we are seeing clients get terminated from the program whose total income is far below their total rent. We do not support expanding this program until the language above is adopted to create a more humane exit standard for both families and individuals. We also note that rapid re-housing for individuals has no regulations to govern it.

### **Targeted Affordable Housing**

Targeted Affordable Housing (TAH) is not being run lawfully by DHS. First, there are no lawfully promulgated rules for determination of eligibility, in violation of the Administrative Procedures Act, the Homeless Services Reform Act, and the Budget Support Act. Yet DHS is currently matching FY22 slots with families. Using a coordinated entry system does not preclude having transparent, lawful eligibility rules—the agency’s role is to instruct the coordinated entry system on lawful eligibility criteria to administer, and the agency must monitor the system for compliance. TAH is a government-funded program, and with that comes certain requirements and legal rights. The agency retains liability if the F-CAHP system misuses government resources or violates federal

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<sup>9</sup> Answer to question 104.

or local law. For example, if F-CAHP decided to assign TAH vouchers only to non-Black families, that would clearly be unlawful discrimination—discrimination for which DHS would be liable. Having a coordinated entry system does not absolve the agency of responsibility for ensuring housing subsidies are administered lawfully, fairly, and without discriminating based on protected classes. That responsibility includes having transparent, publicly available eligibility criteria—and it also means ensuring due process to applicants. We strongly disagree with the agency’s position that they are not required to provide notices of denial and opportunity to appeal to families that they determine to be ineligible for Targeted Affordable Housing. DHS is the gatekeeper for TAH. While DCHA also has a role in eligibility, DHS makes the first determination of eligibility in deciding who to refer for the voucher and to whom to provide the “light-touch” services. The HSRA is clear that such eligibility determinations require a written notice and that applicants have the right to appeal eligibility decisions.

It is worth mentioning that, if DHS does promulgate lawful eligibility rules for TAH, they need to revisit the current guidance they have provided the Committee in oversight responses. Note that the eligibility and prioritization factors provided in response to Question 95a are different from the criteria found in Attachment 95, which mentions that applicants are ineligible if they have an “open court case.” (Without more information, it is unclear whether this includes domestic violence matters, housing conditions, or family law matters.)

### **COVID-19 Mitigation Efforts**

On January 21, 2022, we submitted a letter on behalf of 35 organizations to DHS and Department of Health (DOH) requesting additional measures to be put in place to reduce COVID transmission among people who are homeless.<sup>10</sup> We received no response. While Omicron seems to have peaked, we do not know whether or when a new variant will arrive. We recommend that DHS and DOH immediately adopt the recommended mitigation measures in *advance* of a new surge. It is too late to protect people experiencing homelessness if such measures are taken *after* the surge has hit.

To understand how critical these mitigation measures are, you can look at the number of cases among people who are homeless over three time periods. There were 411 cases in 2020. There were 354 cases in 2021. **In the first two months of 2022 there were 483 cases of COVID-19 among people who are homeless.**

The high infection rate in our emergency shelters results primarily from a combination of the close proximity of shelter residents to each other, and the low vaccination rates of shelter residents. According to the Department of Human Services (DHS), over the past few months (prior to the onset of the Omicron variant), the capacity of the emergency shelters was increased from the 65% “COVID capacity” level that DHS had previously implemented, up to the 85% capacity level. Of course, no one could have predicted the rapid spread of the Omicron variant, but the increased capacity levels in the shelters have proven problematic.

As to vaccination rates, the [DHS COVID Response Storyboard](#) shows the average rate for fully vaccinated residents in emergency shelters to be only 20%. Although this percentage may not

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<sup>10</sup> The full letter can be read here: [https://www.legalclinic.org/wp-content/uploads/2022/01/2022\\_January-21\\_Recommendations-for-COVID-19-Mitigation-Among-People-Who-Are-Homeless.pdf](https://www.legalclinic.org/wp-content/uploads/2022/01/2022_January-21_Recommendations-for-COVID-19-Mitigation-Among-People-Who-Are-Homeless.pdf).

capture vaccinations that occurred outside the shelter system, it is far, far below the 68% fully vaccinated rate for all DC residents.<sup>11</sup>

We propose the following steps be implemented immediately. If these steps had been taken earlier, we may have had fewer COVID cases among people who are homeless:<sup>12</sup>

**1. Fully Use PEP-V Sites.** DHS has limited PEP-V eligibility to those who not only are at high risk of death or serious illness from COVID-19, but who also have been matched for permanent housing. Thus, high risk individuals are being denied access to the non-congregate PEP-V sites simply because they are not matched to permanent housing. There may also be other barriers to entry that DC should lift. In order to protect high risk residents, particularly those in congregate settings, from COVID exposure and severe COVID outcomes, DC should remove any eligibility or documentation barrier that is not required by FEMA. As stated in the January 7 HUD report on the Omicron Surge “it is critical that programs use all available tools to limit the impact of COVID-19 on highly vulnerable individuals” including “**fully utilizing available non-congregate sheltering options.**” (It should also be noted that residents in the PEP-V sites are fully vaccinated at a rate twice that of residents in emergency shelters.)

**2. Increase Testing in Shelters.** It does not appear based on the DHS testing reports that there is a regular schedule of COVID testing implemented in the emergency shelters, but instead testing is done in response to infection outbreaks. DHS should implement regular and frequent test schedules for all emergency shelters, in particular to catch asymptomatic spread. Additionally, rapid COVID tests should be made available to shelter residents and staff so they are able to test immediately if they are concerned about a prior exposure to COVID.

**3. Provide Quarantine for Close Contacts.** During the peak of Omicron, DC was not quarantining shelter residents who had been in “close contact” with residents who had tested positive for COVID. This is in direct conflict with [CDC guidance](#): “In certain congregate settings that have high risk of secondary transmission (such as correctional and detention facilities, homeless shelters, or cruise ships), CDC recommends a 10-day quarantine for residents, regardless of vaccination and booster status.” It is also a change in DC practice, right when a very contagious variant is spreading through shelters. While we understand the Omicron variant may have increased demand for Isolation and Quarantine (ISAQ) beds, increased need is not a legitimate reason to restrict access, particularly to residents of congregate settings who, because of the design of the setting itself, are unable to adequately protect themselves from infection. We understand that this policy has changed, once again, now that the numbers who need quarantine have gone down. Quarantine space should be made available for anyone who is a close contact for someone who has tested positive for COVID, and it is particularly important to sustain—not suspend—this practice when case numbers are high.

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<sup>11</sup> As noted in the recent HUD report “[Omicron Surge and Homeless System Response](#)” (Jan 7, 2022), “lower vaccination rates among people experiencing homelessness put them at increased risk of hospitalization from Covid.”

<sup>12</sup> The federal Interagency Council on Homelessness came out with [new recommendations](#) specifically related to Omicron and homelessness. The recommendations are very similar to ours: “1) Ensure availability of quarantine, isolation, and protective housing spaces; 2) Strengthen routine testing; 3) Encourage and support vaccinations against COVID-19; 4) Maintain mitigation protocols; and 5) Avoid displacing people experiencing unsheltered homelessness.”

**4. Increase Shelter Vaccination Rates.** Efforts to vaccinate shelter residents must be re-doubled—with new strategies and new programs. Concentrated and repeated rounds of pop-up vaccination clinics at each shelter site may be necessary to significantly improve the vaccination rates—as soon as possible.

**5. Stop Clearing Encampments.** Clearing encampments during the pandemic is in direct conflict with [CDC guidance](#) as it increase infection rates among those who are homeless, and the general population as well: “Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.”

**6. Increase Housing Placement Rate and Prevent Evictions to Lower Rates of Homelessness.** Housing is a critical public health intervention, particularly during this pandemic. We urge DHS to increase the speed in which people are placed in housing and to advocate with the Mayor for a reinstatement of the eviction moratorium and investment of surplus dollars in eviction prevention. We also urge DHS to withdraw termination notices from families in rapid re-housing and sustain them in their housing through the pandemic until they are able to afford their rent without continued assistance.

**7. Reduce Infection in Other Congregate Settings. During the Omicron wave,** COVID cases exploded in the jail and have increased, to a lesser degree, in St. Elizabeth’s Hospital. DC residents may move from one of these settings into congregate shelters, and vice versa. It is important to reduce infections in all of these settings to control community spread. We urge DHS and other agencies to work closely with affected community members and advocates for these populations and implement their recommendations, including reducing the number of people held in jails, as recommended by the [District Task Force on Jails & Justice](#), and increasing COVID precautions.

### **Eviction Prevention**

We urge the Committee to hold a hearing on the Emergency Rental Assistance Reform Amendment Act of 2021 and move it forward expeditiously. We believe a hearing would be a good opportunity not only to hear from the public about how the reforms have been effective at reducing barriers to assistance but would also provide a forum to discuss additional lessons learned from the rollout of STAY DC and how we can continue to incorporate best practices into our locally funded eviction prevention program.

It was jarring to hear Director Zeilinger express strong support for new DC Housing Authority requirements that allow voucher applicants to self-certify eligibility factors and then, minutes later, state that she opposes allowing ERAP applicants to self-certify eligibility factors because it will lead to “fraud by bad actors.” First, it may be helpful to remember that ERAP payments go to landlords, not tenants. It is unclear what the incentive would be for a tenant to pretend to be eligible for rental assistance that actually goes to a third party. However, even when public benefits go directly to the applicant, such as TANF or SNAP, claims of fraud are widely overstated.<sup>13</sup> It was disappointing and troubling to have the DHS Director repeat such a pernicious, unfounded, and racist myth as a reason to oppose lowering barriers to rental assistance.

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<sup>13</sup> See “TANF Policies Reflect Racist Legacy of Cash Assistance,” <https://www.cbpp.org/research/family-income-support/tanf-policies-reflect-racist-legacy-of-cash-assistance>.