



Council of the District of Columbia
Committee on Health
Department of Health Care Finance FY21-22 Performance Oversight Hearing

Written Testimony of Jaelyn Verner, Staff Attorney
Disability Rights DC at University Legal Services

March 10, 2022

Disability Rights DC appreciates the opportunity to submit written testimony on the Department of Health Care Finance's (DHCF) performance in FY21. Disability Rights DC (DRDC) is the designated protection and advocacy agency for the District. We advocate on behalf of District residents with disabilities to promote their rights to live in the community under the integration mandate of the Americans with Disabilities Act (ADA) as interpreted by the Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581 (1999).¹ My testimony focuses on (1) the severe direct care staffing shortage in the District, (2) its impact on people with disabilities, and (3) ways DHCF must address this crisis.

DRDC is concerned about the staffing shortages and vacancies in the long-term care service delivery system, including Certified Nursing Assistants (CNAs), Home Health Aides (HHAs), and Direct Support Professionals (DSPs). According to the DC Coalition for Long-Term Care, 50 percent of home health agencies surveyed did not have enough home health aides to staff all clients on every shift and are struggling daily to fill positions.² People with physical and other disabilities depend on quality and competent staff to meet their long-term care services and support needs and to avoid unnecessary institutionalization.

¹ DRDC, along with AARP Foundation Litigation and Terris, Pravlik, & Millian LLP, is plaintiffs' class counsel in *Brown v. District of Columbia*. *Brown* is a class action under Title II of the ADA on behalf of DC residents in nursing facilities who seek transition assistance from the DC government to move back to the community with the Medicaid long-term care services they need. DRDC is also plaintiffs' co-counsel and plaintiff in *MJ v. District of Columbia*, a class action lawsuit under Title II of the ADA and the Medicaid statute on behalf of DC youth with significant mental and behavioral health challenges seeking intensive community-based services to prevent institutionalization.

² Survey of Home Health Agencies: <https://www.dclongtermcare.org/wp-content/uploads/2021/01/COVID-19-Impact-on-HHAs-Survey-Results.pdf>; Survey of facility-based Providers: <https://www.dclongtermcare.org/wp-content/uploads/2021/01/CNA-Survey-12.21.2020-FINAL-.pdf>

DRDC's clients' experiences reflect the systemic impact of this crisis on long-term care beneficiaries. For example, RS, who recently transitioned from a nursing facility, requires 24-hour skilled nursing and PCA services to ensure safe ventilator and trach care. Due to the staffing shortage, he now reports that his skilled nurses are threatening to quit because they are forced to pull double duty for unfilled personal care aide shifts. His provider told him to call 911 if they could not fill all his shifts. Another client, KL, requires nine hours a day in PCA services. She has had personal care aide shifts go unfilled since last July and her request to transfer home health agencies has languished for six months because her case manager contacted at least ten different providers and none of them were accepting new clients due to staff shortages. Finally, AK, whose aides inconsistently arrive as scheduled and whose skilled nursing staff sometimes call out last minute, preventing him from receiving necessary medication, was deterred by DHCF from exercising his right to transfer providers due to the unlikelihood of finding another provider who can staff him.

Currently, DC Medicaid pays home health aides and direct support professionals \$15.50 an hour, just slightly above the minimum wage, and in July, it will be the same rate as minimum wage. The District's funding for the hourly rate for staff must be increased to obtain and retain quality staff. DRDC joins the Long Term Care Coalition in calling for DHCF to work with DC Health and DDA to ensure rates are increased, not simply with a bonus paid or a temporary increase during the pandemic, but increased wages going forward. Additionally, DHCF should create career ladders for increased pay based on advanced education, training and tenure.

DRDC urges this Committee to ensure DHCF makes the necessary changes to ensure that there are sufficient direct care workers to support the basic health and safety of individuals with disabilities living in the community. I am happy to answer any questions about my testimony.

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