



April 8, 2020

The Honorable Greg Abbott
Office of the Governor
P.O. Box 12428
Austin, Texas 78711-2428

Via email

Dear Governor Abbott:

Thank you for your leadership during the COVID-19 emergency, and for requesting a Major Disaster Declaration pursuant to Section 401 of the Stafford Act from the President. The federal resources that Declaration (DR-4485) will bring to Texas are urgently needed to supplement the State's efforts. Unfortunately, they will not be enough as the situation becomes more critical, particularly for the most vulnerable Texans.

While we understand that emergency protective measures that expand the state's medical capacity to respond to COVID-19 are the most urgent need and were appropriately prioritized in Texas' original request, we¹ respectfully request that you amend Texas' request for a Disaster Declaration to seek additional Individual Assistance and other programs provided by the Stafford Act as soon as possible.

Texas' request for a Disaster Declaration is clear that conditions are changing rapidly and that amending the request may be necessary. In the span of only two weeks, the number of confirmed Coronavirus cases in Texas has gone from 352 to 8,262, and the number of deaths from eight to 154.² The number of unemployment claims filed increased by over 1,600% in two weeks, and as the request notes,

¹ Texas Appleseed (Appleseed) is a non-partisan, non-profit, 501(c)(3) organization and part of a national network of public interest law centers. Our mission is to promote justice for all Texans by leveraging the volunteered skills and resources of lawyers and other professionals to identify practical solutions to difficult, systemic problems. We have worked on disaster recovery issues in Texas since Hurricane Rita in 2005.

² Texas Department of State Health Services, current as of April 8, 2020 at 7:53 a.m.

Feeding Texas estimated that it would need an additional \$73 million over the next three months to meet demand for food assistance. Two weeks later, food banks are reporting that they are having to turn families away because they have run out of food, and three of the 21 food pantries in the Panhandle are running out of food to the extent that they may have to stop distributing food altogether in the next two to four weeks.³

Your request also addresses that Texas is still recovering from Hurricane Harvey and four subsequent major disasters; which has made Texas more economically vulnerable to the impact of COVID-19. For example, a study conducted by the Episcopal Health Foundation and the Kaiser Family Foundation a year after Hurricane Harvey found that three in ten affected residents said that their personal financial situation was worse than before the storm.⁴

Affected residents report a variety of financial problems since Harvey. About four in ten (38 percent) say they or someone else in their household has taken on an extra job or worked extra hours since the storm in order to make ends meet, and a similar share (27 percent) say they have borrowed money from friends or relatives. One-third (32 percent) say they have fallen behind in paying their rent or mortgage and three in ten (29 percent) report having problems paying for food. Six in ten (62 percent) of affected residents report at least one of these problems.⁵

A 2015 Pew Charitable Trust study found that less than half (45%) of American households have even one month's income in savings in case of an emergency. The typical household with less than \$25,000 in income has enough savings to replace only six days of household income.⁶ The COVID-19 outbreak promises to be a longer and more widespread disaster than Hurricane Harvey. It is critical that Texans have all the resources they need to survive and then to recover.

Therefore, we respectfully request that the State of Texas amend its Disaster Declaration request to add the following programs and any further Stafford Act Assistance that maybe available.

- Section 408 Individuals and Households Program Assistance (42 U.S.C. 5174)
While we recognize that some of the housing programs in this section may

³ Stacy Fernández, “Food Banks Rely on Donations from Grocery Stores, But as Texans Rush Stores, Grocers Have Less to Give”, *Texas Tribune*, April 8, 2020.

⁴ Liz Hamel, Bryan Wu, Mollyann Brodie, Shao-Chee Sim, and Elena Marks, *One Year After the Storm: Texas Gulf Coast Residents' Views and Experiences with Hurricane Harvey* (Kaiser Family Foundation and Episcopal Health Foundation, August, 2018 Available at: https://www.episcopalhealth.org/wp-content/uploads/2020/01/EHFKFF_Hurricane_Harvey_anniversary_survey_report.pdf

⁵ Ibid at 22.

⁶ The Pew Charitable Trusts, “The Role of Emergency Savings in Family Financial Security: What Resources Do Families Have for Financial Emergencies?” November 2015. Available at: <https://www.pewtrusts.org/-/media/assets/2015/11/emercyncysavingsreportnov2015.pdf>

not be responsive to COVID-19⁷, Other Needs Assistance (ONA) would allow Texans to access emergency funding for medical, dental, child care, and funeral expenses, and other necessary expenses and serious needs resulting from COVID-19. The program specifically provides grants for computers and other educational needs, which is a critical need for low-income and rural families so that their children can participate in online education. The provision of disaster-related childcare assistance would be particularly helpful to first responders and medical professionals who face increased childcare costs because of the disaster, or parents who must rely on childcare to continue to work in essential industries, now that their children are not in school. A declaration that included Other Needs Assistance would also offer the state flexibility to identify other serious needs specific to COVID-19 and make grants available for those needs.⁸

- Sec. 410. Unemployment Assistance (42 U.S.C. 5177). While the Federal government has made additional unemployment assistance available, there are additional eligibility categories, for example, for persons who were going to start a new job, but that job no longer exists because of the disaster and temporary and seasonal workers, available under Section 410. As a state with one of the largest farmworker populations in the United States, it is also vital to make Emergency Grants to Assist Low-Income Migrant and Seasonal Farmworkers (42 U.S.C. 5177a) available to workers whose have lost jobs or income as a result of COVID-19.
- Sec. 412. Benefits and Distribution (42 U.S.C. 5179) and Sec. 413. Food Commodities (42 U.S.C. 5180) Thousands of Texans are losing their jobs or having their income reduced significantly. In addition, as supply chains are disrupted and some countries ban exports of food, food costs may rise at the very time that both food banks and individual families can least afford price increases. Food banks are also increasingly stretched as “stay-at-home” orders deprive them of volunteers and increasing financial pressure on families may force them to reduce their donations. We applaud the state for requesting available waivers from USDA, including expanding the SNAP delivery pilot to Texas. We recommend that Texas request the implementation of the Disaster-Supplemental Nutrition Assistance Program (D-SNAP) from the Secretary of Agriculture, but the state should also request Section 412 and 413 IA in order to ensure its ability have commodities available and distribute them if it becomes necessary.
- Sec. 415. Legal Services (42 U.S.C. 5182) Activating Disaster Legal Services, as provided by volunteer attorneys, is necessary to provide help to individuals and families who cannot afford legal assistance with issues from veterans’

⁷ As more and more people become displaced by COVID-19, these programs may become applicable.

⁸ As the Small Business Administration (SBA) has not made Disaster Recovery Home Loans available to individuals, this demonstrates that SBA assistance does not meet applicants’ needs and will reduce the length and complexity of the eligibility process. We also note that, while ONA cannot pay for housing repair or replacement, it does not exclude rental assistance as a potentially eligible use of funds.

benefits to domestic violence. According to the Texas Access to Justice Foundation, “[l]ow-income⁹ Texans, and many Texans not previously eligible for legal aid, are experiencing the loss of their livelihood requiring legal assistance with unemployment claims, landlord-tenant problems, and consumer credit. These challenges inevitably affect family stability, and exacerbate mental and physical health needs.”¹⁰ Disaster Legal Services would also provide legal assistance for individuals and families who are not eligible for Legal Services Corporation funded legal aid, but are still unable to afford legal assistance. Thirty-four percent of Texans make less than 200% of the Federal poverty level; \$54,400 for a family of four¹¹. Sixty-four percent of Texans make less than 200% of the Federal poverty level; \$78,600 for a family of four.¹²

The scope and scale of COVID-19 are unprecedented. This is the first time a Presidential Disaster Declaration has ever been issued for a public health emergency. We appreciate the extraordinary work that state employees, medical professionals, and countless other Texans are doing to respond to COVID-19, including doubling the number of hospital beds available for COVID-19 patients. We are asking you to request a Declaration that includes additional programs so that all possible resources are available to the state and all affected Texans.

Respectfully,

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⁹ For purposes of eligibility for Legal Services Corporation, “low-income” is defined as less than 125% of the federal poverty rate. For a family of four in Texas, a family with \$32,750 in annual income would be considered “low-income”.

¹⁰ TAJF, News Release, “On COVID-19 and the Impact on Legal Aid in Texas”, March 24, 2020. Available at: <http://www.teajf.org/news/docs/Stmt-on-COVID-19-Legal-Aid.aspx> Legal Aid Programs are also anticipating a loss of \$1million per month in IOLTA funding because interest rates have been reduced to 0%.

¹¹ KFF, Distribution of Total Population by Federal Poverty Level, Available at: <https://www.kff.org/other/state-indicator/distribution-by-fpl/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> Source of Data: American Community Survey, 2008-2018

¹² 2020 Poverty Guidelines can be found at: <https://aspe.hhs.gov/poverty-guidelines>