

2018 -- H 8291

LC005870

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

HOUSE RESOLUTION

REQUESTING AN INDEPENDENT INVESTIGATION OF FAILURES WITHIN THE STATE  
OF RHODE ISLAND'S EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES  
(EOHHS)

Introduced By: Representatives Morgan, Roberts, Giarrusso, Quattrocchi, and Lancia

Date Introduced: June 06, 2018

Referred To: House Judiciary

1 WHEREAS, Recent revelations that a lawyer for the State of Rhode Island's Executive  
2 Office of Health and Human Services (EOHHS) had failed to appeal a ruling by Superior Court  
3 Judge Jeffrey Lanphear which granted a minimum \$24 million judgment to Rhode Island nursing  
4 homes has raised questions concerning the quality and promptness of legal representation as it  
5 relates to EOHHS; and

6 WHEREAS, The initiative known as the Reinvention of Medicaid and the malfunction of  
7 the Unified Health Infrastructure Project have resulted in a failure to adequately defend the  
8 people of Rhode Island and have the potential of severely impacting our state's budget and  
9 taxpayer resources; and

10 WHEREAS, It is in the best interests of our taxpayers to understand the failure in this  
11 case, and to also determine if a pattern of poor legal guidance and representation exists, if  
12 conflicts of interest have impacted our legal representation, and what future jeopardy may exist  
13 for the State of Rhode Island; now, therefore be it

14 RESOLVED, That this House of Representatives hereby requests an independent  
15 investigation of:

16 (a) The failure of the EOHHS Staff lawyer to file an appeal to the Courts in the nursing  
17 home rate case;

18 (1) Why was he allowed to practice without completing CLE credits?

19 (2) Did his supervisors know he had lost his license?

- 1 (3) What actions did he take when notified of Judge Lanphear's decision?
- 2 (4) Was anyone else involved in deleting the email or failure to prepare an appeal?
- 3 (5) What other persons received notice of the case?
- 4 (6) What other EOHHS personnel were involved in preparing the State's case and  
5 subsequent appeal?
- 6 (7) What, if any, conflicts of interest exist with EOHHS personnel, the legal staff and  
7 individuals involved in this case?
- 8 (8) Do political contributions by Mr. Hazian have any bearing on his failure to provide  
9 adequate defense on this case?
- 10 (9) How many and what other cases did Mr. Hazian oversee and were there any conflicts  
11 of interest found in any of his previous cases?
- 12 (10) What is the supervisory structure in this case and who provided oversight?
- 13 (11) Did senior staff have notice of the court's ruling?
- 14 (12) Why was only one lawyer in charge and is this the protocol for all outside cases?
- 15 (13) Are Rhode Island taxpayers vulnerable to this type of inaction again?
- 16 (14) Are other lawyers involved in this case and/or did outside lawyers affect Mr.  
17 Hazian's actions or lack of action?
- 18 (15) The 2 percent rate cut was part of a cost containment program and was maintained as  
19 part of the Governor's Reinvention of Medicaid program. What additional actions were  
20 undertaken as part of that program and have others been stopped by the Court or involved legal  
21 action?
- 22 (b) Has EOHHS provided adequate oversight to those initiatives?
- 23 (c) What has been the results/savings of those individual actions?
- 24 (d) Has EOHHS legal staff fully represented the State's taxpayers in these cases?
- 25 (1) Have deadlines been missed?
- 26 (2) Have requirements requested by the Courts been ignored?
- 27 (e) What financial effects have resulted from the 2 percent cut on local nursing?
- 28 (1) Was it involved in the closure of any nursing homes?
- 29 (2) Has it resulted in staff reductions in the nursing homes or their suppliers?
- 30 (3) Has it impaired the ability of nursing homes to staff, pay and retain staff?
- 31 (f) How has the failure of the Unified Health Infrastructure Project (UHIP) affected  
32 nursing homes in regards to:
- 33 (1) Financial stability of all nursing homes?
- 34 (2) Ability of medically fragile seniors to access care in nursing homes?

- 1 (3) Backlog of determining eligibility of Medicaid eligible patients/residents?
- 2 (g) How many Medicaid eligible patients have died without eligibility determination and  
3 how does this affect the nursing homes and the State's taxpayers?
- 4 (h) How much money is in jeopardy of future clawback/fines due to lack of eligibility  
5 determination and computation of accurate cost-sharing payments?
- 6 (i) How many warnings of potential fines have the Administration received in connection  
7 with the UHIP crisis?
- 8 (1) What actions, or inaction has been taken in response to these warnings?
- 9 (2) Has Mr. Hazian been involved in legal defense of these warnings/actions?
- 10 (3) What supervisory mechanisms were/are in place to ensure a timely response?
- 11 (4) What office/personnel are responsible for oversight of our appeals to federal agencies  
12 in relation to UHIP failures?
- 13 (5) What is the status of these appeals?
- 14 (6) Has outside counsel been engaged? Why? At what cost to taxpayers?
- 15 (j) What is the total financial jeopardy to the State's taxpayers in connection with the  
16 failed launch of UHIP?
- 17 (1) What fines have been threatened?
- 18 (2) How much has been spent to defend against those warnings?
- 19 (3) Quantify cost of future payments for clawbacks?
- 20 (4) Who will be responsible: nursing homes - patients - State of Rhode Island?
- 21 (k). What actions have been taken by the legal defense team to protect against future  
22 actions in connection with failed/delayed eligibility determinations of medically fragile seniors?
- 23 (l) In addition to nursing homes, what other legal jeopardy has the botched launch of  
24 UHIP created for Rhode Island's taxpayers?
- 25 (1) What actions have the legal staff taken to prepare/defend against future fines or court  
26 actions?
- 27 (2) What relationship did Mr. Hazian have to UHIP fines, court actions and complaints?
- 28 (3) What is the supervisory structure within EOHHS to deal with UHIP related litigation?
- 29 (m) Originally some patients were removed without warning from state Medicaid  
30 benefits that resulted in them missing medically necessary treatments and or medication. Did any  
31 of these removals result in legal action and if so, what has been the results of those cases?
- 32 (1) Which lawyers did EOHHS appoint to represent the state?
- 33 (2) Were these cases won or lost?
- 34 (3) What has been the total cost to taxpayers for any of these possible legal actions?; and

1 be it further

2 RESOLVED, That this House hereby requests the Secretary of the EOHHS to provide the  
3 answers to the above questions on or before July, 1, 2018; and be it further

4 RESOLVED, That the Secretary of State be and hereby is authorized and directed to  
5 transmit duly certified copies of this resolution to the Honorable Gina Raimondo, Governor of the  
6 State of Rhode Island, and the Secretary of the Executive Office of Health and Human Services.

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