

## Behavioral health shakeup prompts another call for HSD head's resignation

Written by By Joey Peters NM Political Report  
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After testimony from officials from three nonprofits that provided behavioral health services that were targeted with fraud allegations but later cleared by the attorney general, a second New Mexico lawmaker called for state Human Services Department Secretary Brent Earnest to resign.

“This is just morally repugnant behavior that this administration, this department, has done,” state Rep. Christine Trujillo, D-Albuquerque, said [July 27] at an interim Legislative Health and Human Services Committee meeting. “It’s criminal and obscene.”

Trujillo and eight other state lawmakers listened to the heads of three of the 15 behavioral health organizations that were infamously accused of “credible allegations of fraud” in 2013 by HSD’s then-Secretary Sidonie Squier.

The department cited an audit from Boston-based Public Consulting Group that found \$34 million in Medicaid fraud between the 15 providers. Squier cut off Medicaid funding from the providers, but the Attorney General’s Office has since cleared all from any wrongdoing.

Now, many of these providers—most of which shut their doors after the Medicaid freeze—are going through “fair hearings” with HSD to resolve the alleged overpayments. In the meantime, five firms from Arizona took over providing behavioral health services. Three of those Arizona firms have already left the state.

Patsy Romero, CEO of Easter Seals El Mirador, one of the nonprofits, choked up when she spoke at the hearing of the patients she said aren’t being served because of the shakeup. She mentioned hearing about two youths who her organization served recently committing suicide.

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“What happened to the 30,000 lives that were totally displaced by this?” Romero told lawmakers.

Trujillo called the actions “criminal behavior.”

At one point in the hearing, she turned to state Sen. Jerry Ortiz y Pino, D-Albuquerque, who in May called for Earnest's resignation amid a different scandal involving food stamps that has been recently rocking the department.

“I would love to join you in asking for his resignation again and for criminal charges to be pressed,” Trujillo told Ortiz y Pino. “This isn't human error anymore. This is actually criminal behavior. And so many people have been asked to pay the price for venial sins.”

Critics have said the audit on which HSD based its “credible allegations of fraud” findings was unreliable. Public Consulting Group extrapolated from samples of \$42,500 in Medicaid overbilling and came up with the \$34 million figure.

Attorney General Hector Balderas cleared 13 of the providers earlier this year. Former Attorney General Gary King cleared the other two providers while he was in office.

Clearing the providers of wrongdoing opened the providers up to a “fair hearing” process with HSD to resolve the overbilling issues. HSD officials have stood by the department's 2013 action to cut Medicaid funding from the providers and said they would seek to collect all overbilled Medicaid funds.

Romero and Nancy Jo Archer, executive director of Hogares, both told lawmakers that they had recently concluded their fair hearings. Both criticized the process.

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“In our experience, a fair hearing is an unfair process,” Romero said. “HSD acts as auditor, judge and jury.”

Romero said the fair hearing concluded that Easter Seals owes \$127,000 from Medicaid overbilling, the vast majority of which she said was extrapolated from actual findings.

Archer said her organization's fair hearing with HSD concluded that Hogares owes \$3.1 million from Medicaid overbilling, which she said was extrapolated from \$2,500 in actual findings.

Shannon Freedle, CEO of Teambuilders, said HSD is currently claiming his organization's Medicaid overpayments amount to \$2.2 million. That number was extrapolated from less than \$750 in actual overbilling findings, he said.

Freedle is set to begin his hearing with HSD next week. Both Romero and Archer have appealed their hearing conclusions in Santa Fe district court.

All contended that their organizations' Medicaid overbilling issues amount to common errors and that HSD didn't give them due process.

“We were within the national expected margin of error of 6 to 9 percent,” Freedle said.

***By Joey Peters***

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