

Members of Health and Human Services Sub Committee:

My name is Patsy Romero, I am the CEO of Easter Seals El Mirador and one of the NM Behavioral Health Providers who was part of the Behavioral Health Suspension: I was asked by Roque Garcia, former CEO of Southwest Counseling Center in Las Cruces to share the paid ad that will be in the Las Cruces Sun News. Before I read the ad, I would like to provide you with a status on the New Mexico Behavioral Health Providers.

- In January of this year 12 of the New Mexico Providers were called to a Mediation for settlement at the request of HSD.
- At that time only four providers of the 12 NM Providers (who had been cleared by AG) had completed a fair hearing of their overpayment demands from HSD.
- The four providers that went through the “fair hearing” process included; The Counseling Center in Alamogordo; Easter Seals; Hogares and Teambuilders. All four appealed the decision by the hearing officer and their cases went to district court. The main reason for appeal is the extrapolation being used by HSD in their overpayment demands.
 - The Counseling Center won their appeal in District Court but HSD appealed the decision. The court of appeals has not made a final decision.
 - Easter Seals appealed the decision by the hearing officer and is waiting for a decision by the district court.
 - Hogares also appealed the decision by the hearing officer and the case is at district court.
 - Teambuilders won the decision by the hearing officer but HSD rejected the decision and demanded an extrapolated overpayment. They have appealed to district court.
- At the January Mediation all providers walked away without a settlement because HSD wanted providers to drop their civil lawsuits and wanted the providers to give HSD the money that was owed to the providers from OptumHealth for services rendered during the suspension. HSD offered to forgive the extrapolated overpayment demands if the providers were to turn over the money held by Optum. The providers rejected the offer.
- Because there was no settlement, HSD had to provide the remaining NM Agencies with their fair hearing. These providers included Southwest Counseling Center, Border Area, Valencia Counseling, Southern New Mexico Human Development and Families and Youth.
- As a result of the “fair hearing” the overpayment demands have been reduced substantially from what HSD was attempting to collect. For example, all of the providers in question are left with billing errors that average less than \$800 and all of the provides have a less than 5% error rate.
- In the case of Southwest Counseling Center; HSD originally accused SWCC of overbilling Medicaid \$2.9 million. In preparation for their fair hearing SWCC was able to research the “alleged failed claims”; and found that **only 5 claims valued at \$487.84 failed** and the error rate was so low that HSD agreed to settle and not extrapolate the \$484.87 as they did with other providers. SWCC did not have to go through the fair hearing because of the low failure rate which was below 3%.
- Unfortunately all of the providers have had similar experiences finding minor human error causing claims to fail; **not one provider including HSD has been able to identify “egregious” clinical errors** as reported by then Secretary Squire, Deputy Secretary Ernest, Public Relations Representative Matt Kennecott; CEO Dianna McWilliams and General Counsel Larry Hayek. NM Providers were driven out of business; their reputations have been destroyed; one lost their life and several their health; One has been forced to leave his community; had the lives of the most

vulnerable mentally ill, seriously emotionally disturbed children and their families care was disrupted. Many of these individuals lost their lives, many ended up in the streets, many in jail and numerous were hospitalized because they had no care. In addition, this administration spent and continues to spend over \$30 million dollars from NM Taxpayers to fund Arizona agencies who have since left and never provided the care that once served as the safety net for the most vulnerable.

The following is the ad that SWCC's Board of Directors has placed in the Las Cruces Sun News and requested that I present to this committee today:

On July 23 2013 the Martinez's Administration closed Southwest Counseling Center (SWCC). They alleged that SWCC was committing fraud and had overbilled 2.8 million dollars. SWCC had served the behavioral health needs in Las Cruces for 50 years and had been the first Community Mental Health agency in the state. The Martinez Administration refused to show us any information as to how they had arrived at these assumptions only saying we were guilty. In other words we were guilty until we proved ourselves innocent. In February of 2016 the NM AG's office cleared SWCC of any fraud. Martinez continued to say we had overbilled by 2.8 million dollars but they still refused to give us any information as to how they arrived at the number. Finally in May of 2017 we were given the information. By early June of 2017 the attorneys for HSD agreed that SWCC did not owe 2.8 million dollars but rather that SWCC only owed \$484.87. The Martinez Administration closed a 50 year old company for an overpayment of \$484.87. A company that had scored in the high 90's on their clinical audits. After the closure of SWCC Martinez spent (threw away) an estimated 30 million tax payer dollars bringing companies from Arizona into NM. Most of those companies have now left NM with new cars and their pockets full of tax payer dollars.

"For the last four years a day has not passed that I don't think about the tremendous injustice that the behavioral health system of the state was subjected to." Roque Garcia CEO SWCC

**During her re-election the Martinez campaign ran ads that used examples of SWCC as her 'tough on crime' stance. The reality was that the only crime committed was by Martinez against the mentally ill of Las Cruces and the past employees of SWCC. We would like to thank all the Democrat legislators that stood up from the begin against this injustice. We especially would like to thank Senator Papen for her tireless work on this issue.
Board of Directors for SWCC**

While Mr. Garcia could not be here today he stated in an email on 6/15/2017:

"How do they justify unjustly attacking us all as having done so many things illegally when there never was even a shred of evidence. I didn't only leave the community I was forced to leave the state because no one in health care would hire me. I was contacted by job recruiters that would say that they would like to give me a chance but with all the allegations none of their clients would take a chance".