

CHRIS GIBSON

19th District, New York

1708 Longworth Building
Washington, DC 20515
(202) 225-5614

<http://gibson.house.gov>



Congress of the United States
House of Representatives
Washington, DC 20515

November 10, 2015

HOUSE ARMED SERVICES COMMITTEE

Subcommittee on Tactical Air and
Land Forces

Subcommittee on Readiness

HOUSE AGRICULTURE COMMITTEE

Subcommittee on Conservation
and Forestry

Subcommittee on Biotechnology,
Horticulture, and Research

HOUSE SMALL BUSINESS COMMITTEE

Subcommittee on Agriculture, Energy
and Trade

Subcommittee on Contracting and
Workforce

New York State Comptroller Thomas P. DiNapoli
110 State Street
Albany, NY 12236

Dear Comptroller DiNapoli,

As you are well aware, on September 25, 2015, the federal Centers for Medicare & Medicaid Services (CMS), New York's state insurance exchange (New York State of Health), and the New York State Department of Financial Services (DFS) announced that they would shut down Health Republic Insurance of New York (Health Republic) effective January 1, 2015. On October 30, 2015, DFS issued a press release stating that Health Republic will cease operations on November 30, rather than December 31.

As the not-for-profit health insurance CO-OP (Consumer Operated and Oriented Plan) established under the Affordable Care Act, Health Republic was created to provide affordable healthcare options for New Yorkers. The sudden failure of Health Republic has wreaked havoc on the New York health insurance market rather than providing its 215,000 enrollees with affordable healthcare options.

In addition to the hundreds of thousands of enrollees who are being forced off of their plans in the coming month, New Yorkers currently enrolled in non-Health Republic plans could see their premium costs go up even further in the future as other plans absorb the (largely high-cost) Health Republic enrollees. Furthermore, providers across the healthcare industry – from hospitals and doctors, to insurance brokers – are being told to expect pennies on the dollars for outstanding payments owed by Health Republic.

Rightfully so, Governor Cuomo has requested an investigation into the financials that Health Republic reported to DFS, but the investigation cannot end there. It is imperative that we determine how, in arguably the most regulated state in the country when it comes to healthcare, a failure of this size occurred. An independent investigation of DFS by your office is necessary to examine the efficacy of our state regulators' oversight of the market.

Questions to consider during the investigation include:

- Governor Cuomo has insisted that Health Republic misrepresented their financials to DFS. What was the DFS process for confirming and auditing the information reported to the agency by Health Republic? Was DFS negligent in reviewing Health Republic's filings?
- On July 31, 2015, DFS announced health insurance premium rate increases, including for Health Republic. The rate increase approved by DFS was lower than the increase requested by Health Republic. What did Health Republic's financials look like when the higher rate increase was denied by DFS?
- When were the first signs spotted by DFS that Health Republic was financially distressed? How and when was Health Republic's financial trouble communicated by DFS to the Governor's office? What was done by DFS and the Governor's office, and how quickly was it done, to address the financial instability?
- It was announced on September 25 that Health Republic would wind down by December 31. About a month later, DFS said it would shut down a month earlier. Was DFS not aware until one day before the open enrollment period was to begin that 215,000 Health Republic enrollees would need to be shifted to other insurance providers?
- The Acting Superintendent of DFS, Anthony Albanese, resigned three weeks after the agency's initial Health Republic announcement and a week before the October 30 announcement of the revised shutdown date. Was Albanese's resignation related to the Health Republic failure?
- According to media reports, DFS currently has no superintendent, no chief of staff, no general counsel, no executive deputy for insurance, no head of its property bureau, and dozens of other vacancies. How and why was the agency allowed to become so understaffed? Did these vacancies affect the agency's ability to oversee Health Republic and/or contribute in any way to its failure? Will the vacancies affect the agency's ability to conduct the investigation of Health Republic that the Governor has directed?
- It was reported that some CO-OPs were permitted to reclassify their federal start-up loans as surplus notes. Did New York regulators allow Health Republic to employ this accounting tactic? If so, why? And if not, how was Health Republic's Risk Based Capital allowed to get so low that the company is now unable to pay out claims?

These questions, and others, require answers. When the healthcare of more than 200,000 New Yorkers is interrupted and more than \$250 million of federal investment has been lost, it is the duty of government officials to restore confidence in the regulatory infrastructure designed to prevent such failures. I urge you to initiate an investigation of the caliber that your office has been known for by the people of New York, and look forward to reviewing your findings.

Thank you for your service to the people of New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "CPA" with a large, sweeping flourish extending to the right.

Chris Gibson

Member of Congress