STATE OF RHODE ISLAND
OFFICE OF THE HEALTH INSURANCE COMMISSIONER

In Re: Neighborhood Health Plan of Rhode Island)
Rates Filed for 2026 Individual Market Plans) OHIC-RH-2025-2

POST-HEARING MEMORANDUM OF THE ATTORNEY GENERAL

Neighborhood Health Plan of Rhode Island ("NHPRI") is seeking to impose an excessive premium increase of 21.2% on Direct Pay consumers in 2026. The Health Insurance Commissioner should deny NHPRI's requested rate for the following reasons: First, NHPRI has failed to meet its burden to demonstrate that the requested rates would provide affordable and accessible health insurance for Rhode Islanders.[1] The requested increase would amount to an estimated $1,000 increase in annual individual premiums and nearly $4000 increase in annual household premiums, as compared to the prior year.[2] Such an increase would likely render health insurance inaccessible and unaffordable to many Rhode Islanders. These affordability concerns are exacerbated by the anticipated loss of enhanced subsidies at the end of this year. Second, NHPRI has not established that the proposed rate increase is consistent with the public interest. NHPRI utilized several deficient assumptions in its rate filing that do not support its requested rate, and NHPRI likewise failed to demonstrate that the requested rate increase will translate to improvements in access to care or quality of care. Third, the requested increase, if granted, will harm Rhode Island's health care system by fueling a cycle of unaffordable rate increases that could further destabilize the market, harming consumers and providers alike. Last, NHPRI's proposed rates highlight several inherent limitations in Rhode Island's rate review process, including an excessive focus on actuarial methodology and solvency to the detriment of consumer interests. We discuss these limitations below to promote an appropriately searching review of NHPRI's rate filing.

The Attorney General files this post-hearing submission in furtherance of his distinct role in the health insurance rate review process: to represent, protect and

[1] *See* R.I. Gen. Laws §§ 27-19.2-3(1) and 27-19.2-10(3).
[2] Consumer and Economic Report, Page 13.

advocate for Rhode Islanders who are or will be consumers of these insurance products.[3] The Attorney General also files this submission in his role as the State's Health Care Advocate: to advocate for quality and affordable health care for all.[4] It is not the role of the Attorney General to simply advise whether the actuarial projections provided by an insurer can support requested rate increases; rather, it is incumbent upon the Attorney General to also determine whether such increases are warranted given the health care and economic landscape in which these increases are sought. This role includes addressing the shortcomings of the rate review process itself.

The Office of the Attorney General warned in last year's rate proceeding of the lurking danger associated with continued rate-increase requests.[5] We alerted the Office of the Health Insurance Commissioner (OHIC) that, for plans sold in the individual marketplace, enhanced temporary subsidies provided by the American Rescue Plan Act (ARPA) in 2021 and extended by the Inflation Reduction Act (IRA) in 2022 have masked the actual pocketbook cost of marketplace coverage to consumers.[6] Until now, most consumers have not had to bear the full costs of premiums set through this proceeding because many consumers received subsidies to finance the purchase of their insurance. Consequently, these subsidies expanded the number of enrollees who could afford to buy marketplace coverage.

Now, absent further action by Congress, these subsidies will expire as of December 31, 2025, and consumers will have to contend with the full impact of the yearly premium increases that have accrued since 2021. Taking into account the requested increase, NHPRI will have raised overall average weighted premiums by over 48.1% since 2020.[7] As NHPRI plans generally reflect a higher proportion of low-income enrollees, the impact of the requested rate increase will likely be even more substantial for NHPRI's enrollees as a portion of their necessary expenses. Thus, the rate increases that are proposed this year will be acutely felt by many individual consumers who have already seen steady

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[3] *See* R.I. Gen. Laws § 27-36-1.
[4] *See* R.I. Gen. Laws § 42-9.1-2(5).
[5] Office of the Health Insurance Commissioner, Attorney General Post Hearing Submission. https://ohic.ri.gov/sites/g/files/xkgbur736/files/2024-08/2024.08.02%20RIAG%20%20Post%20Hearing%20Submission.pdf
[6] *Id.*
[7] AG Exhibit 8.

increases in premiums over the past four years but are now affected by reduced subsidy levels. The Attorney General previously cautioned that "the day may come when consumers will be forced to bear substantially higher costs built up over this period when the true cost increases were not directly borne by consumers."[8] That day has now come. Consumers need bold protection now more than ever, as the full weight of years of approved increases will be directly passed on to them.

NHPRI's requested rates place an outsized burden on individual market plan consumers, comprising approximately 32,000 Rhode Islanders, to shore up an under-resourced and underfunded health care system that is not delivering the access to care those consumers expect and deserve. Regardless of the actuarial evidence provided for these rate increases, they must be evaluated in the context of the OHIC's overall mission: to protect health care access, affordability, and quality. Here, OHIC has the opportunity to fulfill its mission by considering the true impact of these increases on consumers and the Rhode Island health care system alike. The requested rate increase should accordingly be rejected because it will undermine "the goal of quality and affordable health care for all . . . ."[9]

I. JURISDICTION AND STANDARD OF REVIEW

OHIC has jurisdiction over this matter pursuant to R.I. Gen. Laws §§ 27-18.2-1 et seq., 27-19-6, 27-20-6, 42-14-5(d) and 42-14.5-3(d). The hearing was conducted beginning on Tuesday, July, 15 2025, in accordance with the Administrative Procedures Act (R.I. Gen. Laws § 42-35-1) and in accordance with R.I. Gen. Laws §§ 27-19-6 and 27-20-6.

NHPRI bears the burden of proof that its proposed rates are "consistent with the proper conduct of its business and with the interest of the public."[10] There is an inherent tension within this standard, insofar as that which is consistent with NHPRI's interest

[8] *See* https://rhodeislandcurrent.com/2024/08/05/ag-objects-to-health-insurance-rate-hikes-sought-by-blue-cross-blue-shield-rhode-island/ (brackets omitted)
[9] *See* R.I. Gen. Laws § 42-9.1-2(5).
[10] *See* R.I. Gen. Laws §§ 27-19-6; 27- 20-6.

may not be consistent with the public's interest.[11] NHPRI is further statutorily required to offer its Direct Pay members "affordable and accessible health insurance" and must further "employ pricing strategies that enhance the affordability of health care coverage."[12]

While NHPRI has the burden of proof in this matter, the Commissioner shall discharge the duty of his office to protect consumers while simultaneously guarding the solvency of insurers.[13] The ultimate responsibility for determining whether the proposed rates are fair, reasonable, not excessive, not unfairly discriminatory, and consistent with the interest of the public rests exclusively with the Commissioner.

II. TRAVEL

On May 14, 2025, NHPRI filed for approval of its 2026 rates for its Direct Pay line of business. NHPRI's filing requests an overall average weighted premium increase of 21.2%. On June 20, 2025, the Commissioner issued a Scheduling Order in this matter setting forth the various due dates for pre- and post- hearing submissions and setting this matter for public hearing. Prior to the pre-hearing submission and hearing, the Office of the Attorney General and OHIC were permitted to conduct discovery and serve information requests on NHPRI.

The public hearing commenced at 9:00 a.m. on Tuesday, July 15, 2025. At the commencement of the hearing, the parties offered several stipulations, establishing that notice was adequate and that the Commissioner had jurisdiction to preside over the hearing.[14] The parties agreed to stipulate that each proffered expert was an expert in their respective fields.[15] The parties also stipulated which exhibits put forward by each party were to be admitted in full and identified several exhibits that were to be admitted

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[11] *See Hosp. Serv. Corp. of Rhode Island v. West*, 308 A.2d 489, 495 (R.I. 1973) ("If the Legislature intended that proof of consistency with the proper conduct was to be synonymous with proof of consistency with the interest of the public [per R.I. Gen. Laws §§ 27-19-6 and 27-19-20], it would have said so.").
[12] R.I. Gen. Laws § 27-19.2-3(1).
[13] See R.I. Gen. Laws § 42-14.5-2.
[14] July 15, 2025, Hearing Transcript, Page 4-7.
[15] *Id.* at 8-9.

for identification only.[16] The parties also offered stipulation regarding the confidentiality of certain documents and figures.[17] The record was left open to allow for admission of public comments, the next publication of the CPI-U, the 2024 risk adjustment payments, and post-hearing papers.[18]

Testimony of NHPRI's and OHIC's witnesses concluded in the late afternoon on July 15, 2025. The first public comment session was held at 6:00 p.m. on Tuesday, July 15, 2025, and was concluded at 7:00 p.m. No members of the public appeared to provide comments. The second public comment session was held at 9:00 a.m. on Wednesday July 16, 2025. Again, no members of the public attended to comment. The Hearing recommenced at 9:30 a.m. on July 16, 2025. The Hearing officially concluded on Wednesday July 16, 2025. The public also had the opportunity to provide written comments on NHPRI's proposed rate.

III. ARGUMENT

A. NHPRI FAILED TO ESTABLISH THAT ITS REQUESTED RATE INCREASE WOULD PROVIDE AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE.

NHPRI has proposed a nearly 22% premium rate hike on consumers. NHPRI must demonstrate that the proposed increase is consistent with its statutory obligation to "provide affordable and accessible health insurance to insureds" and "employ pricing strategies that enhance the affordability of health care coverage."[19] NHPRI has failed to meet this burden because the requested rate is unaffordable and would render health care coverage under NHPRI's individual market plans inaccessible to many Rhode Islanders. The expert testimony, expert reports, exhibits, and arguments made by this Office throughout the course of this proceeding clearly and consistently demonstrate that a nearly 22% increase in premiums will negatively impact NHPRI's members.[20]

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[16] July 15, 2025, Hearing Transcript, Page 6-7.
[17] *Id*. at 6-7.
[18] *Id*. at 8.
[19] *See* R.I. Gen. Laws §§ 27-19.2-3(1) and 27-19.2-10(3).
[20] Consumer and Economic Report, Page 3; Consumer and Economic Report, Page 13; Consumer and Economic Report, Page 14; July 16, 2025, Hearing Transcript, Page 66; July 16, 2025, Hearing Transcript, Page 68; July 16, 2025, Hearing Transcript, Page 76; July 16, 2025, Hearing Transcript, Page 77.

When assessing these rates, the Attorney General urges the Commissioner to consider them within the context of their very real cost, and potential harm, to consumers.

The Attorney General in his role as insurance advocate for this proceeding introduced the testimony and expert report of Christopher Whaley, Ph.D. Dr. Whaley is a health economist and Associate Professor of Health Services and Policy Analysis at the Brown University School of Public Health. He testified in his personal capacity. Dr. Whaley's research "focuses on U.S. health care markets and the impacts of health care spending on patient access to care and finances."[21] He has published over 100 peer-reviewed publications on these topics.[22]

Dr. Whaley's expert opinion is that NHPRI's requested rate increase would be "quite harmful to consumers and something that many consumers in Rhode Island would struggle to afford."[23] Dr. Whaley presented expert testimony and a written report detailing the harms to consumers from premium increases of this nature and the danger to the broader health care system from these increases. To aid in the Commissioner's deliberations, the Attorney General details below the evidence in the record that weighs against the requested rate.

1. *Expert Witness Testimony Confirms the Proposed Rates Would Cause Immediate Harm to Consumers*

As reflected in Dr. Whaley's report, NHPRI's requested rate increase would place "immediate and significant financial pressures on Rhode Island consumers and households."[24] In Rhode Island, the average benchmark plan costs consumers $5,100,[25] representing roughly 10% of the medium income among workers.[26] According to Dr. Whaley, health insurance expenses can account for a much larger share of household costs for lower-income households, for whom health insurance expenses represent up to

[21] AG Exhibit 1; July 1, 2025, Hearing Transcript, Page 340-345.
[22] *Id.*
[23] July 16, 2025, Hearing Transcript, Page 66
[24] Consumer and Economic Report, Page 14.
[25] *Id.* at 2; *see also* AG Exhibit 3.
[26] Consumer and Economic Report, Page 2; *See also* Exhibit 4.

16% of total expenses.[27] A 21.9% "annual increase in one of the largest household expenses would have profound impacts on household budgets."[28]

To illustrate the impact, Dr. Whaley presented evidence that a Rhode Island family of four with an income of $64,300, or 200% of the Federal Poverty Line, would spend 38% of their household budget on premiums as a result of this requested increase.[29] In Dr. Whaley's opinion, if NHPRI rates were approved as requested, they would "create a substantial and meaningful financial burden."[30] Dr. Whaley testified that the average Rhode Islander would struggle to afford such an increase.[31] This impact is particularly concerning for NHPRI's products because NHPRI enrollees are predominantly lower-income individuals.[32]

NHPRI provided no evidence to show that Rhode Islanders would be able to afford such drastic increases in cost. These unaffordable rates come at a time when Rhode Islanders are already in a uniquely precarious economic position. As Dr. Whaley testified, "while the rest of the country has enjoyed wages that have outpaced the rate of inflation," Rhode Island has not had that experience.[33] Wage growth in the state has been lower than inflation, and inflation itself has been higher in Rhode Island than in other parts of the country; this has left Rhode Island consumers less able to absorb further increases in health care or other costs.[34] Measured in real (inflation-adjusted) terms, wages in Rhode Island have decreased relative to the rest of the country.[35] Accordingly, as Dr. Whaley succinctly explained, when the rest of the country is given a new dollar, that same dollar in Rhode Island is worth less.[36] Rhode Islanders' comparatively weaker purchasing power hinders consumers' ability to absorb higher premium costs.

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[27] Consumer and Economic Report, Page 3.
[28] Consumer and Economic Impact Report, Page 13.
[29] Consumer and Economic Impact Report, Page 13; AG Exhibit 15.
[30] Consumer and Economic Impact Report, Page 14.
[31] *Id.*
[32] July 15, 2025, Hearing Transcript, Page 125-126
[33] July 16, 2025, Hearing Transcript, Page 77; OHIC Exhibit 50.
[34] July 16, 2025, Hearing Transcript, Page 73-76
[35] *Id.*
[36] July 16, 2025, Hearing Transcript, Page 77: OHIC Exhibit 50.

Rising health care expenses are not only reflected in growing premiums but also in an increasing burden from insurance cost-sharing obligations. Currently, NHPRI plans have deductibles up to $7,050.[37] Even assuming a significantly lower $5,000 deductible, the requested rate increase would require a median income household in Rhode Island to spend 36% of their household budget on health expenses.[38] Rising insurance costs and less generous coverage has created a situation where, despite having insurance coverage, many households do not utilize care due to large out of pocket expenses.[39] Given Dr. Whaley's testimony that most households do not have $400 in their checking account, it is difficult to understand how access to health insurance would be maintained.[40] When people cannot afford their health insurance, they lose access to health care. This loss of access is a real and substantial risk if the requested rate is approved.

These steep increases will force difficult tradeoffs for Rhode Islanders, particularly in a state where insurance coverage is mandated by law.[41] The penalty for individuals without insurance is generally 2.5% of their income or $695, whichever is higher.[42] Where the cost of noncompliance with the insurance mandate is lower than paying for NHPRI's increased premium rate, consumers may choose what they perceive to be the more affordable option of just paying the tax penalty.[43] Given the steep increase requested by NHPRI, some enrollees will be forced to choose between accessing care, and adding to their savings;[44] others may have to cut back on food, rent, and other household expenses.[45]

Households that elect to forego coverage would be exposed to financial hardships from a lack of coverage, and their continued need for care may simultaneously place

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[37] *Id*. at 3.
[38] *Id*. at 13.
[39] *Id*. at 3.
[40] July 16, 2025, Hearing Transcript, Page 67-68.
[41] R.I. Gen. Laws § 44-30-101(b) ("Every applicable individual must maintain minimum essential coverage for each month beginning after December 31, 2019.).
[42] R.I. Gen. Laws § 44-30-101(d).
[43] July 16, 2025, Hearing Transcript, Page 66.
[44] July 16, 2025, Hearing Transcript, Page 68
[45] July 16, 2025, Hearing Transcript, Page 68

additional financial burdens on the Rhode Island provider delivery system.[46] The inaccessibility of health insurance may also harm consumers by leading them to avoid high value care that is essential to their well-being. A wide body of evidence documents the importance of health insurance coverage on use of preventive care, improvements in health and well-being, and reductions in mortality.[47] A lack of affordable health insurance options in Rhode Island will likely reduce Rhode Island consumers well-being and could lead to a reduction in health status and potential increases in mortality.[48] Due to the significant consumer harm that could arise from the requested rate increase, the Commissioner should deny the requested increase.

2. *The Risk of Consumer Harm through Foregone Coverage and Care Will be Enhanced by Loss of Subsidies*

Increased premiums are not the only economic pressure Rhode Islanders will face in 2026 when it comes to buying health insurance. At the end of 2025, the Enhanced Premium Tax Credits ("EPTCs") will expire unless Congress extends them, which it recently declined to do when it passed H.R. 1.[49] EPTCs were an element of the 2021 American Rescue Plan, which aimed to expand access to and stabilize health insurance coverage.[50] The EPTCs temporarily allowed enrollees to purchase more affordable health insurance in the ACA marketplace. To illustrate the magnitude of these subsidies, some lower-income enrollees enjoyed a net premium payment of zero. Enrollees with higher incomes also had access to significant subsidies for the first time.[51] The elimination of subsidies is especially relevant to the population NHPRI serves. In past years, a majority of NHPRI's enrollees have received tax credits because its Direct Pay market is predominantly made up of lower-income individuals whose incomes fall just above criteria for Medicaid eligibility.[52]

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[46] Consumer and Economic Report, Page 13; *see also* AG Exhibit 54.
[47] Consumer and Economic Report, Page 14: AG Exhibit 57; *see also* AG Exhibit 58
[48] Consumer and Economic Report, Page 14.
[49] Public Law No. 119-21.
[50] AG Exhibit 28 Page 1.
[51] *Id.*
[52] July 15, 2025, Hearing Transcript, Page 125-126.

The loss of the EPTCs will make purchasing health care substantially more expensive for these consumers.[53] These subsidies placed direct and indirect downward pressure on premiums, which benefited all enrollees. With respect to the direct effect on premiums, the subsidies reduced premiums paid by individuals within this market by setting limits on the amount of household income that needed to go towards premiums. With respect to the indirect effect on premiums, because EPTCs lowered the costs of obtaining coverage, they attracted more people and healthier people into the marketplace, which lowered the average health risk. When a risk pool is healthier, the insurance carrier takes on less risk and thus can keep premiums lower.

This year, Rhode Islanders are faced with both double-digit increases in premiums and the elimination of federal assistance that helped consumers purchase already expensive health insurance. Meanwhile, consumer purchasing power has weakened. Marketplace shoppers are being placed in a nearly impossible situation, forced to choose either to purchase expensive coverage without enhanced subsidies or to go uninsured. For a portion of low-income Rhode Islanders, 2026 will represent the first time in four years that they will have to pay for health insurance as they will no longer qualify for a net zero premium payment.

If granted, the requested rate increases will force consumers to choose between going uninsured, drawing down their savings (if any), or spending less on other household necessities. That is a harm to Rhode Island consumers, a harm the Commissioner must guard against. NHPRI has received a 27% increase in premiums since 2020 (excluding the currently requested rate).[54] The requested rate would nearly double that increase in one fourth of that time. Meanwhile, the median household income in Rhode Island increased by just 2.1%.[55] To avoid the negative impact on consumers resulting from the requested rate increase, OHIC should reject the requested rate increase.

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[53] Consumer and Economic Report, Page 12.
[54] July 16, 2025, Hearing Transcript, Page 77.
[55] *Id.*

B. NHPRI'S RATE FILING RELIES ON QUESTIONABLE ASSUMPTIONS, AND NHPRI FAILED TO ESTABLISH THAT THE REQUESTED RATE INCREASE IS CONSISTENT WITH THE PUBLIC INTEREST.

Based on the administrative record, NHPRI failed to meet its burden to demonstrate that the requested rate increase is in the public interest.[56] A key purpose of the rate filing process is to assess the sufficiency of the carrier's estimates of liabilities for the coming year; overestimates of liabilities can lead to potential windfalls to the insurer, at the expense of consumers. The public interest is not served by a requested rate increase that not only would harm consumers and the health care system but also lacks economic justification sufficient to support the request. NHPRI estimated its prescription drug costs are expected to increase by 10 to 13 percent annually.[57] This was a significant driver of NHPRI's large rate increase. NHPRI cited increased use of glucagon-like peptide 1s ("GLP-1s"), specialty pharmaceuticals, and primary care investments as cost drivers in the filing.[58] With respect to NHPRI's filing, there are several key metrics and inputs that Dr. Whaley highlighted and that the Commissioner should consider as ripe for reduction because they are either speculative or fail to account for economically supported offsets.

1. Assumptions Regarding GLP-1 Usage

The filing cites GLP-1 usage as a factor placing upward pressure on premiums. GLP-1s are used to treat obesity and diabetes for NHPRI enrollees.[59] NHPRI data indicated that from 2021 to 2025 there has been an over 950% increase in total spending on GLP-1s, a majority of which is for diabetes care.[60] This represents a significant upfront investment in providing cutting edge medical technology for NHPRI's members. The increase in drug costs associated with GLP-1s is only one example of rising drug costs cited in the filing.

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[56] *See* R.I. Gen. Laws §§ 27-19-6; 27- 20-6.
[57] Consumer and Economic Report, Page 5.
[58] July 16, 2025, Hearing Transcript, Page 78-87.
[59] Consumer and Economic Report, Page 5.
[60] *Id*. at 5.

However, Dr. Whaley presented evidence that the net price of GLP- 1s has decreased by approximately 30% in the last few years.[61] Notably, prices for GLP-1s for the treatment for diabetes are considerably lower than prices for obesity treatment.[62] These decreasing costs are, in part, a result of increased competition from compounding pharmacies and new entrants in the market.[63] Therefore, according to Dr. Whaley, it is likely net prices for GLP-1s will continue to decrease.[64]

Importantly, GLP-1s have demonstrated substantial clinical efficacy and potential downstream cost savings that were not adequately accounted for in NHPRI's filing.[65] Dr. Whaley testified that GLP-1 usage is associated with improved patient health outcomes.[66] Particularly for diabetes treatment, improved adherence to these drugs is linked to lower hospitalization rates and reduced overall medical spending.[67] Although these drugs may have been initially costly, their increased use may lead to lower overall spending in the long-term, which would place downward pressure on premiums.[68] According to Dr. Whaley, a health plan may spend $100-200 per month on GLP-1 spending for members prescribed GLP-1s.[69] But that may offset the costs of having to pay for higher-cost emergency room visits or hospitalizations.[70] Dr. Whaley testified that NHPRI could obtain the benefit of these offsets in the upcoming plan year, given that a bulk of the increase in spending on these drugs occurred in 2024.[71] Researchers have found that an approximately one dollar increase in prescription drug spending for diabetes patients leads to a $1.14 reduction in overall medical spending.[72] Applying that

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[61] Consumer and Economic Report, Page 6; Pearson SD, Whaley CM, Emond SK. Affordable Access to GLP-1 Obesity Medications: Strategies to Guide Market Action and Policy Solutions. ICER; 2025.
[62] Consumer and Economic, Report, Page 6.
[63] Consumer and Economic Report, Page 6; Pearson SD, Whaley CM, Emond SK. Affordable Access to GLP-1 Obesity Medications: Strategies to Guide Market Action and Policy Solutions. ICER; 2025.
[64] Consumer and Economic Report, Page 6.
[65] Consumer Economic Report, Page 6.
[66] July 16, 2025, Hearing Transcript, Page 79.
[67] *Id*. at 5.
[68] Consumer and Economic Report, Page 6.
[69] July 16, 2025, Hearing Transcript, Page 79.
[70] *Id*.
[71] *Id*. at 80.
[72] July 16, 2025, Hearing Transcript, Page 82-83.

estimated reduction here, Dr. Whaley testified that NHPRI's increased drug spending could ultimately result in a 14% reduction in overall medical spending.[73] Based on the evidence demonstrating that NHPRI failed to account for reduced price growth of GLP-1s or the possibility of reduced medical spending resulting from their use, the Commissioner should reject the requested rate.

2. Assumptions Regarding Broader Pharmaceutical Pricing Trends

NHPRI listed specialty pharmaceuticals as a significant cost driver.[74] Since 2021, spending on specialty pharmaceuticals for autoimmune disease has increased over 175%.[75] While the filing emphasized this increase in spending, it did not address the recent market entry of lower-priced biosimilar drugs.[76] Generic versions of expensive drugs are continuing to enter the market, including biosimilars for arthritis, a disease category for which NHPRI estimated further spending growth.[77] This is especially relevant to this filing because the use of biosimilars for autoimmune conditions has rapidly increased among the NHPRI population.[78] Dr. Whaley opined that the use of biosimilars is expected to grow and place downward pressure on per-unit prices, and therefore insurance rates.[79] Dr. Whaley testified that downward pressure on prices is almost certain to occur as more biosimilars become available.[80] He also provided examples of steps that NHPRI could take to encourage utilization of lower-cost generics/biosimilars among its members, which would result in reductions of the overall rates.[81] In his expert opinion, it would be reasonable to expect that the introduction and utilization of these generic drugs could result in a fifty percent reduction in the cost of providing certain drugs to consumers.[82]

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[73] July 16, 2025, Hearing Transcript, Page 83.
[74] *Id.* at 83.
[75] *Id.* at 83.
[76] Consumer and Economic Report, Page 6; July 16, 2025, Hearing Transcript, Page 81.
[77] July 16, 2025, Hearing Transcript, Page 81.
[78] Consumer and Economic Report, Page 6.
[79] *Id.* at 83.
[80] July 16, 2025, Hearing Transcript, Page 81.
[81] *Id.* at 81.
[82] *Id.* at 82.

3. Assumptions Regarding Primary Care Spending

While NHPRI listed primary care investments as a cost driver in its filing, NHPRI failed to address the effect that increased investment in primary care will have in offsetting or decreasing overall medical spending. According to Dr. Whaley's testimony, when a payor invests in primary care, evidence has shown there to be "substantial offsetting effects" on spending.[83] Although NHPRI may have to spend more on primary care visits as a result of its contracted rates or policy commitments, if that spending leads to more patients accessing preventive care, it could avoid higher-cost hospitalizations in the future.[84] Patients are also more likely to adhere to medication when utilizing a primary care provider, which can further reduce emergency room visits or hospitalizations.[85] Dr. Whaley gave examples of the benefits of increased primary care utilization, including detection of complex illnesses, improved quality of care, reduced future hospitalization, and reduced emergency department visits.[86] Dr. Whaley testified that every dollar invested in primary care results in a roughly $1.10 reduction in overall medical spending,[87] and he testified that, in NHPRI's case, it is likely that these kinds of spending offsets will occur in plan year 2026.[88] Investing in primary care benefits all players in the system – patients, providers, and insurers alike.

In light of NHPRI's failure to address countervailing factors that could place downward pressure on premiums, the Commissioner should reject the requested rate.

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[83] July 16, 2025, Hearing Transcript, Page 83.
[84] July 16,2025, Hearing Transcript, Page 83.
[85] *Id*. at 83.
[86] Consumer and Economic Report, Page 11, Swan G, Condon MJ, Altman W, et al. Does Higher Spending on Primary Care Lead to Lower Total Health Care Spending? Health Affairs Forefront. Published online October 8, 2024. doi:10.1377/forefront.20241007.439293
[87] *Id*. at 84.
[88] July 16,2025, Hearing Transcript, Page 83.

C. THE PROPOSED RATE INCREASE WILL EXACERBATE THE SYSTEMIC RISK TO THE RHODE ISLAND HEALTH CARE SYSTEM, CONTRARY TO THE PUBLIC INTEREST.

The Rhode Island health care landscape is an interconnected system. When a subset of Rhode Islanders chooses to go uninsured because they can no longer afford coverage, that harm extends beyond just those individuals and places a burden on the care system as a whole. This impact undermines the public interest,[89] and the Commissioner is charged with accounting for these systemic considerations when reviewing rate filings.[90]

The Rhode Island health care system is already in crisis. While rates have increased year after year, those rising costs for consumers have not translated into improved access to and quality of care. According to Dr. Whaley, the requested rate increase could have "detrimental impacts to Rhode Island providers and their financial stability, as well as the stability of Rhode Island health insurance markets."[91] As discussed further below, the requested rate would generate a "large and immediate financial shock" that could "threaten to pose economic hardship and potentially threaten insurance market stability."[92] In addition, NHPRI's briefing materials called into question the insurer's intention to meet crucial regulatory obligations related to primary care investment. These are harms the Commissioner must guard against when making his decision.

[89] See R.I. Gen. Laws §§ 27-19-6; 27- 20-6.
[90] 230-RICR-20-30-4.8.
[91] July 1, 2025, Hearing Transcript Page 426.
[92] Consumer and Economic Report, Page 14.

1. *Excessive Rate Increases Could Produce Independent Distortionary Effects on Rhode Island's Insurance Market.*

As discussed above, when faced with a stark premium increase, consumers may choose to forego health insurance coverage. But individuals without coverage still demand health care services. Dr. Whaley testified that many economists are worried about a situation where, given large increases in the cost of premiums, many healthier individuals decide not to purchase health insurance,[93] creating adverse selection where only sicker individuals remain in the market.[94] This harmful feedback loop could lead to a circumstance in which insurers must again increase rates to an even more unaffordable level to cover spiraling and unpredictable costs, thereby forcing additional healthier consumers out of the risk pool and leaving only sicker individuals insured. This is a systemic risk – potentially brought about by excessive premium increases – that could, in turn, undermine the stability of the state's broader health care system. Dr. Whaley expressed concern that the requested rates may be the start of what economists refer to as a "death spiral,"[95] when year after year the individuals who remain insured tend to be those who are sicker,[96] and each subsequent year's premiums must be even higher to cover costs.[97] This will place "tremendous pressure on the Rhode Island insurance market."[98]

2. *Excessive Rate Increases Will Create System Harm by Increasing Rates of Uncompensated Care*

As established above, the record reflects a potential risk that excessive rate increases could cause individuals to drop health insurance en masse yet still utilize health care services. Under federal law, hospitals are required as a condition of Medicare participation to provide emergency stabilization or transfer services, regardless of a patient's ability to pay.[99] Policy decisions that leave a portion of the low-

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[93] July 16, 2025, Hearing Transcript, Page 69.
[94] *Id.*
[95] July 16, 2025, Hearing Transcript, Page 69. We note there was a transcription error. The transcript reads "debt" spiral, whereas Dr. Whaley said "death". *See id.*
[96] July 16, 2025, Hearing Transcript, Page 70.
[97] *Id.* at 70.
[98] *Id.* at 70.
[99] *See* 42 U.S.C. § 1395dd.

income population without health insurance and lead hospitals to bear the financial costs of uncompensated care convert facilities into insurers, shifting risk from carriers to health care providers.[100] According to evidence in the record, hospitals will bear the burden of the increase uninsured rate to the tune of $900 for each additional uninsured person per year.[101]

Rhode Island hospitals have long been in crisis and are not equipped to absorb an increase in uncompensated care costs. In 2017, Memorial Hospital closed after years of dealing with financial issues and a decline in its patient base.[102] Care New England, the hospital's parent company, lost $68 million the year prior to the closure.[103] Currently, two vital community hospitals, Roger Williams and Our Lady of Fatima, are in a precarious financial position. The parent company of those hospitals, Prospect Medical Holdings, filed for bankruptcy earlier this year.[104] The hospitals have been able to attract a buyer, in part because of support the Office of the Attorney General secured for the hospitals in its 2021 Hospital Conversions Act decision. Health systems and providers are feeling the pressures that arise from the State's failure to fix the fundamentals of our health care system.

It cannot be the sole obligation of individual health care consumers to pay more every year to stabilize a system that is failing. Granting the proposed rate increase would exacerbate the currently dire health care situation and potentially destabilize an already fragile system for years to come.

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[100] AG Exhibit 54 Page 4.
[101] AG Exhibit 54 Page 2.
[102] 10WJAR, "Many questions surround Memorial Hospitals closing in Pawtucket." Oct. 18, 2017, https://turnto10.com/news/local/many-questions-surround-memorial-hospital-closing-in-pawtucket
[103] *Id.*
[104] Rhode Island Current, "Prospect declared bankruptcy, says sale of Roger Williams hospitals will continue." Jan. 12, 2025. https://rhodeislandcurrent.com/2025/01/12/prospect-declares-bankruptcy-says-sale-of-roger-williams-and-fatima-hospitals-will-continue/

3. *NHPRI's Statements Regarding Compliance with Primary Care Spending Targets*

During the hearing, NHPRI indicated that it may be unable to meet OHIC's primary care spending target. The Attorney General has sounded the alarm on the primary care access crisis plaguing Rhode Island.[105] The state has a shortage of primary care providers, which creates barriers to care and places increased strain on our health care system in the form of uncompensated care. Rhode Islanders deserve access to primary care to receive the health benefits associated with timely preventive care and care management. The cause of this provider shortage is multifactorial, but there is one cause that directly contributes to this shortage: lack of commercial payor investment in the primary care system, including stagnating payment rates to providers.

In March 2025, OHIC finalized regulations that require commercial plans subject to OHIC regulation to increase their spending on primary care.[106] During the rate hearing, NHPRI stated that "it believes the project[ions] in the proposed rates were within a reasonable range to meet the 2025 and 2026 requirements."[107] However, under further questioning from the Commissioner, NHPRI testified that, while it made its "best efforts to meet a half percentage increase in '25 and an additional percentage increase in '26," "it will be challenging" to meet the required spend required under OHIC regulations.[108] According to evidence and testimony proffered by NHPRI, the insurer will be short $1.8 million to be on track to hit the required 10% spend target by 2028.[109] Based on testimony during the hearing, NHPRI is relying on an 11.6% increase in primary care visits to meet the spending requirement, but NHPRI proffered testimony that only a 2-4% range increase is realistic.[110] NHPRI also plans to increase its primary care spend by waiving cost-sharing requirements for the first two primary

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[105] WPRI, "No time not to act: Neronha unveils plan to confront RI health care crisis," May 28, 2025, https://www.wpri.com/health/neronha-to-announces-steps-to-address-ris-health-care-crisis;
[106] 230-RICR-20-30-4
[107] July 15, 2025, Hearing Transcript, Page 157.
[108] *Id*. at 158.
[109] July 15, 2025, Hearing Transcript, Page 167.
[110] *Id*. at 216.

care visits and encouraging increased utilization of primary care.[111] However, 50% of the NHPRI commercial population are non-utilizers of primary care,[112] and NHPRI did not present any initiatives or plans to incentivize these insureds to use primary care. This is a particularly galling omission given the primary care shortage in Rhode Island[113] — any health care consumer here without a primary care physician already knows that getting connected to primary care in a timely manner is almost impossible even for highly motivated consumers.

The potential for NHPRI to fall short on its primary care spending obligations is concerning not only from a legal compliance perspective but because, according to the record and OHIC's regulatory history, commercial payor investment in primary care is desperately needed in Rhode Island and is one meaningful step the payer can take to reduce overall costs in the long-term.[114] Dr. Whaley testified that the existing evidence demonstrates primary care has a roughly 10% offsetting effect, such that every dollar spent on primary care leads to a roughly $1.10 reduction in medical spending.[115] NHPRI needs to capitalize on effects like this to bring the cost of care, and thus the cost of insurance premiums, down.

NHPRI has failed to meet its burden of demonstrating that the requested rates are within the public's interest. In light of the aforementioned considerations, the Attorney General urges the Commissioner to reject the requested increase.

D. THE PROPOSED RATE INCREASE HIGHLIGHTS THE INHERENT LIMITATIONS OF THE RATE REVIEW PROCESS.

Rate review processes at the state level were established as an important check on private insurers' ability to increase premiums with impunity. OHIC's rate review process can and should serve a vital function, and we support any and all efforts to ensure that insurance premiums are closely scrutinized.

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[111] NHPRI Binder July 3, 2025, Page 21.
[112] *Id*. at 21.
[113] RIPBS, "Rhode Island Faces Worsening Crisis in the Shortage of Primary Care Physicians," https://www.ripbs.org/news-culture/health/rhode-island-faces-worsening-crisis-in-the-shortage-of-primary-care-physicians
[114]July 16, 2025, Hearing Transcript, Page 84.
[115] *Id*.

However, the process this year provides a clear example of why the rate review process is limited: OHIC and NHPRI each provided actuarial testimony but neither dedicated adequate focus to whether the requested rate would be affordable for consumers. Whether a rate is actuarially sound or sufficient to avoid insolvency must not be the only line of inquiry.

Both NHPRI and OHIC have obligations to Rhode Islanders to ensure affordable health insurance. OHIC's regulations require the agency to protect the interests of consumers, and OHIC's own regulations state that consumers have an "interest in stable, predictable, affordable rates for high-quality, cost-efficient health insurance products."[116] Yet, OHIC's pre-hearing filings and testimony did not focus sufficient attention on affordability and, more concerning, seemed designed to avoid addressing the affordability (or lack of affordability) of the requested rate.

In turn, despite NHPRI's statutory obligation to provide accessible and affordable health insurance,[117] NHPRI put forth no evidence in their pleadings nor in their testimony during the rate hearing with respect to whether a nearly 22% increase would be affordable to its members. While NHPRI at times appeared to acknowledge the need to keep rates affordable,[118] the insurer did not adequately explain or justify how a 22% increase might be considered affordable for consumers. Simply acknowledging the importance of affordability is not enough – it is the insurer's statutory obligation to carry its words into action by ensuring its plans are in fact affordable. Given NHPRI's statutory obligation to provide affordable health insurance, the failure to adequately address affordability should concern the Commissioner and consumers alike.

During the hearing, OHIC and NHPRI appeared to assume that just because NHPRI offers the lowest priced plans in the state's exchange, those plans are affordable.[119] But this conflates relative pricing differences between plans with absolute affordability for consumers. Rhode Island having a lower priced benchmark plan than peer states does not necessarily mean that the plan is affordable to consumers.[120] There

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[116] 230-RICR-20-30-4.9.
[117] *See* R.I. Gen. Laws §§ 27-19.2-3(1) and 27-19.2-10(3).
[118] July 15, 2025, Hearing Transcript, Page 161.
[119] July 16, 2025, Hearing Transcript, Page 101; July 16, 2025, Hearing Transcript, Page 90-93.
[120] July 16,2025, Hearing Transcript Page 71.

are many consumers in this state whose spending will be forced to shift substantially as a result of the requested rate increase or who are at risk of losing or foregoing health insurance altogether.[121]

While OHIC's regulations require it to guard the solvency of health insurers,[122] that consideration must be balanced against the exceedingly strong interests of consumers in being able to obtain affordable health coverage. As discussed above in addressing consumer impact, Dr. Whaley's testimony offered a contrasting view to the solvency-exclusive focus typically espoused in these hearings. Moreover, Dr. Whaley reviewed NHPRI financial statements from 2024 and the first quarter of 2025 and opined that NHPRI exhibited relative financial stability.[123] For example, NHPRI's financials indicated that NHPRI's cash-on-hand is increasing, especially for the first period of 2025.[124] This financial stability is an important factor when considering whether NHPRI's requested rates are in the public interest.

The Attorney General is concerned that focusing too much on actuarial calculations or solvency – which insurers are predisposed to advocate around – excludes important consumer impacts that will be felt and risks giving insurers a windfall by overestimating their need for premium rate increases. If an insurer obtains a windfall, the only corrective mechanism built into the process arises from medical loss ratio (MLR) requirements. Such a narrow focus on solvency fails to place these rates within the proper context; consumers will have to pay these rates and pay for whatever incremental gain in solvency is possible. But, sometimes, the price is too high to pay for a decreased risk, especially when the risk is already at an acceptable level. The Attorney General is concerned these hearings have departed from their statutory grounding by focusing on just one aspect of their purpose – solvency; but the public's interest can only be served by a more comprehensive assessment of the rate's impact on consumers and the healthcare system alike. The predominant focus on solvency by NHPRI and OHIC begs the question: Are consumers interests being protected if the regulator and

[121] *Id*. at 71.
[122] 230-RICR-20-30-4.4.
[123] July 16, 2025, Hearing Transcript, Page 71.
[124] *Id*. at 71.

regulated party agree that solvency is the only lens through which to assess consumer impact?

Equally important, in order for the rate review process to be effective, OHIC should establish a mechanism for ensuring that premium increases translate to improvements in access to care. While OHIC has taken important steps towards ensuring increased investment in high-value forms of care, such as primary care, we support further efforts to build similar considerations into the rate review process. We urge OHIC to consider the lack of evidence of specific improvements in access to and affordability of care when evaluating NHPRI's requested rate increase.

IV. CONCLUSION

Throughout this proceeding, the Attorney General has sought to ensure that the voice of consumers is adequately represented. When the rate review process is reduced to a case of dueling actuaries in the face of double-digit premium growth, with no testimony elicited by OHIC's counsel as to the ultimate economic effect on Rhode Islanders, the consumer perspective risks being lost. The administrative record demonstrates why we should be skeptical of this outsized rate increase request.

We urge OHIC to reject the requested rate hike and instead adopt a wide, forward-looking, and long-term policy perspective that balances the highly technical actuarial evidence before it, alongside the exceedingly important interests of consumers, the carrier's sophistication and ability to manage financial solvency across its various business lines, and the significant gaps in access that Rhode Islanders face.

Investment in the health care system is warranted, but it cannot be accomplished through raising premiums on a small fraction of Rhode Islanders. Accordingly, in light of the arguments above and the evidence introduced in the record, the Attorney General urges the Commissioner to reject the proposed rate increases.

Respectfully submitted,

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Certificate of Service

I hereby certify that on this 7th day of August 2025, the foregoing document was delivered via electronic mail to Health Insurance Commissioner Cory King (cory.king@ohic.ri.gov); Raymond A. Marcaccio, Esq., Legal Advisor to Commissioner King (ram@om-rilaw.com); Emily Maranjian, Executive Legal Counsel for OHIC (Emily.Maranjian@ohic.ri.gov); Jasmin Amaral, OHIC Docket Clerk, Office of the Health Insurance (Jasmin.Amaral@ohic.ri.gov); Robert Fine, Counsel for NHPRI (rfine@crfllp.com), Mary Eldridge, Vice President and General Counsel for NHPRI (meldridge@nhpri.org)