

Hawaii

# How House Leaders Scuttled Better Pay For Foster Parents

House Speaker Scott Saiki said attorney fees were too high in a multi-million-dollar settlement of a lawsuit challenging foster care payment rates.

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By Chad Blair    / May 17, 2017

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As a foster care parent for a quarter of a century, Raynette Ah Chong has seen a lot of kids — 108 to be exact — come through her Kahaluu home in Windward Oahu.

Ah Chong and her husband Edward love the work. It started with her experience growing up in Hawaii Kai, where her homemaker mom helped take care of neighborhood kids whose parents were working.

Foster parents, however, are poorly paid.

Even as the cost of housing, food and personal items kept rising, the state's monthly payment to foster parents of \$529 per month per child remained unchanged for 24 years. Finally in 2014, the state increased the payment by an additional \$46 to \$121 per child, depending on age.

That's still far short of what foster parents consider adequate pay for caring for some of the state's most vulnerable children.

That's why Ah Chong, 56, welcomed a settlement with the state last August stemming from two lawsuits that challenged the payment rates for Hawaii's foster care program. Both the state Department of Human Services and the state Attorney General had signed off on the deal.



Raynette and Edward Ah Chong's five children with their foster youth, Abraham Akana, far right, during Christmas 2016.

The settlement — which provided \$14 million for the state Department of Human Services for foster care support, \$2.3 million in back payments to foster parents like Ah Chong, and \$1.1 million in attorney fees during the next two years — seemed set to sail through the 2017 Legislature.

The DHS funds were to be included as part of [the state budget](#), while payments to foster parents and the legal fees were part of a bill settling [claims against the state](#).

But House leaders scuttled the plan during the last days of the session, declining to provide any money in the budget for the settlement. House Speaker Scott Saiki later said attorney fees in the settlement were too high.

What was Ah Chong's reaction?

"It pissed me off, that's my reaction," she said. "It pissed me off."

Ah Chong and the two other lead plaintiffs in the state suit, Patrick Sheehey and Patricia Sheehey, were to be awarded \$5,000 each from the settlement.

## 'House Leadership Killed It'

Attorneys for Ah Chong and other plaintiffs say the state's failure to fund a settlement in both the federal and state lawsuits means the foster care case will likely go to trial.

The initial settlement in August 2016 would have provided \$85 million in support for the foster care system over the next 10 years. If the case goes to court, plaintiff lawyers argue the state could be on the hook for much more money.



House Speaker Scott Saiki said attorney fees were too high in the foster care settlement.

The Senate was set to approve the settlement at the agreed-upon amount. But the House removed the funding without any explanation during the conference committee period in the last week of April.

“It just didn’t make any sense,” said Paul Alston, one of the attorneys for the class action federal lawsuit that resulted in the settlement. “It appears that House leadership killed it.”

Alston called into last Thursday’s episode of [Insights on PBS Hawaii](#), where Saiki was one of the guests. Moderator Daryl Huff asked Saiki why the House killed the bill, even though the governor, the attorney general, DHS and Senate leaders wanted to pass it.

“The concern in the House was that the request for attorney fees was too large,” said Saiki, himself an attorney.

*Below: House Speaker Scott Saiki explains on [PBS Island Insights](#) why no money was provided for the foster care settlement:*

“That’s just bullshit,” Alston said Tuesday. He said legal fees and costs on his side were actually \$2.9 million before the settlement.

“They always had the option to leave this to a court settlement. Frankly, I believe we are going to receive substantially more — both what is owed to the foster parents and the entitled fees — if we prevail, as I think we will. We will be taking double at least.”

Alston faults House leadership, including Rep. Sylvia Luke, the House Finance Committee chairwoman who had sign-off authority on the budget and claims bills.

Like Saiki, Luke is an attorney. Neither responded to several inquiries, while DHS Director Pankaj Bhanot said he could not comment.

Attorney General Doug Chin declined to comment.

## Not A New Problem

State officials and advocates have argued for years that the foster care system is seriously underfunded.

In 2013, for example, Pat McManaman, the DHS director at the time, told lawmakers that an estimated \$5.2 million a year for increased payment rates was needed. Others agreed.

“The \$529 per month reimbursement rate that Hawaii resource caregivers receive to cover their foster children’s costs has not changed since 1990,” testified Judith Wilhoite of the nonprofit Family Programs Hawaii. “In hard economic times like we are in now, this can prevent good families from becoming resource caregivers and at the same time, force good resource caregivers out of the system.”




House Finance Chair Sylvia Luke at a hearing in January.

In the view of Gavin Thornton, co-executive director for the [Hawaii Appleseed Center for Law and Economic Justice](#), the state had plenty of time to get its act together but chose not to.

“Year after year, foster parents and the organizations that support foster children had requested an update, and year after year it wasn’t done,” he said.

Thorton represents some of the plaintiffs in the current suit. He described the foster care payments in the state budget as a “win-win-win.”

“It’s a win for foster children who would have greater resources and support,” he said. “It’s a win for our community, which, by making an investment in foster children now, would be avoiding paying years down the road for criminal justice expenses and other consequences of neglect. And it’s win for the state, which would be resolving litigation that carries a potential liability of hundreds of millions of dollars.”



**“It costs more to kennel a dog than the state was paying to care for children in the foster care system.” — Attorney Gavin Thorton**

Thorton worries what will happen to the foster kids and their caregivers. The legal complaint argues that the state violated the federal Child Welfare Act, which requires that the state provide “foster care maintenance payments” that cover the costs of raising a child in foster care.

“It costs more to kennel a dog than the state was paying to care for children in the foster care system,” he said.

Ah Chong, the longtime foster care provider who was lead plaintiff in the initial 2013 state lawsuit on behalf of more than a thousand other foster parents, wants lawmakers to move forward

“I want the government to step up to the plate, to tell the Legislature, ‘Come on, get with it,’” she said. “I challenge all the legislators, every single one, to foster one child for one week, and then tell me that the money is enough.”

April 30, 2014, class action lawsuit against filed on behalf of licensed foster care providers:

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

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SHEEHEY, RAYNETTE AH  
CHONG, individually and on behalf of  
the class of licensed foster care  
providers residing in the state of  
Hawaii,

Plaintiffs,

vs.

PANKAJ BHANOT, in his official  
capacity as the Director of the Hawaii  
Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

**PLAINTIFFS' NOTICE OF  
UNOPPOSED MOTION AND  
UNOPPOSED MOTION FOR  
AWARD AND APPROVAL OF  
SETTLEMENT REGARDING  
ATTORNEYS' FEES AND SERVICE  
AWARDS; DECLARATION OF PAUL  
ALSTON; DECLARATION OF CLAIRE  
WONG BLACK; DECLARATION OF  
GAVIN THORNTON; DECLARATION  
OF JAMES HANCOCK; EXHIBITS "A"  
– "G"; CERTIFICATE OF SERVICE**

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