



GOVERNMENT OF PUERTO RICO
OFFICE OF THE GOVERNOR

**Written Testimony submitted by the
Honorable Pedro R. Pierluisi
Governor of Puerto Rico
before the U.S. House of Representatives Committee on Energy and Commerce,
Health Subcommittee
Hearing on "Averting a Crisis: Protecting Access to Health Care in the U.S.
Territories
March 17, 2021**

Chairman Pallone, Health Subcommittee Chairwoman Eshoo, Ranking Member McMorris Rodgers, Health Subcommittee Ranking Member Guthrie, and Members of the Committee:

We thank you for the opportunity to submit a statement to the Subcommittee to discuss how to protect access to healthcare for the millions of Americans who reside in the U.S. Territories. I come to you today on behalf of 3.2 million American citizens, in my capacity as the Governor of Puerto Rico.

Medicaid is the primary federal program designed to provide access to healthcare for Americans with limited resources, including many of the Nation's most vulnerable populations. The vulnerable U.S. citizens in Puerto Rico have the same need for quality healthcare as those on the mainland, but historical limitations and shortfalls in Medicaid funding for Puerto Rico limit access and place a far higher burden on the local program that is placed on any other U.S. jurisdiction. The COVID-19 pandemic has only exacerbated these challenges.

Since the early days of the Medicaid program, Puerto Rico has continuously urged Congress to provide an adequate funding stream that does not place Americans residing in Puerto Rico at a disadvantage, and starting with the Affordable Care Act, there have been some improvements. However, those improvements have been temporary, and Puerto Rico, every couple of years, has faced a massive funding cliff and a potential humanitarian crisis as a result, as it will again happen at the end of the current fiscal year. Although Puerto Rico participates in the Medicaid program, its effective Federal Medical Assistance Percentage ("FMAP") has always been below where it would be if the FMAP were determined as it is for the states. Currently, the territorial FMAP is set by statute at 55 percent, but would likely be above 80 percent if based on a formula that takes into account Puerto Rico's average per capita income. In addition, Puerto Rico's Federal Medicaid funding is capped, and as a result, its effective FMAP is usually far lower than the statutory amount.

Specifically, the Affordable Care Act ("ACA") provided a block grant to the territories, which expired on December 31, 2019. The Consolidated Appropriations Act of 2017 provided Puerto Rico with nearly \$300 million in additional Medicaid funds, and the Bipartisan Budget Act of 2018 provided Puerto Rico and USVI with funds that were available until September 30, 2019. The Further Consolidated Appropriations Act of 2020, provided Puerto Rico and the other U.S. territories an increase in Section 1108(g) of the Social Security Act (SSA) capped funds and an increase in the FMAP.

Puerto Rico was allocated an increased capped funding of \$2.6 billion for fiscal year (FY) 2020¹, and \$2.7 billion for FY 2021, at an increased FMAP of 76 percent. The increased capped funding for FY 2020 and FY 2021, respectively, were also subject to a potential annual increase of \$200 million, if the Secretary of Health and Human Services (HHS) certified that Puerto Rico established a reimbursement floor, implemented through a directed payment arrangement plan, for physician services covered under Medicare Part B at a rate not less than 70 percent.²

For FY 2021, the total cost of Puerto Rico's Medicaid program is roughly \$3.7 billion, of which roughly \$3 billion is the capped Federal share (resulting in a blended FMAP of roughly 82%). The increased funding has had a very positive effect on the Island's health care programs by:

- Allowing substantial increases to provider compensation: elevating Medicare Part B reimbursement to 70 percent of Medicare Fee Schedule
- Providing hospitals DRG-based increases amounting to \$106 million
- Providing \$50 million dollars to Primary Care Providers ("PCP")
- On the beneficiary side, it allowed raising the poverty level to 85 percent of the federal poverty level, which enabled up to 200,000 new members
- Funded the Hepatitis-C initiative to start eradication of the disease by 2030

While these increases have helped provide greater access to healthcare for our vulnerable populations, Puerto Rico now faces a Medicaid fiscal cliff on September 30, 2021. In effect, if Puerto Rico were to "hit the cliff," federal Medicaid funding would revert to the historical Section 1108 allotment – about \$392.5 million – and the remaining Medicaid expenditures would have to be covered with local funds.

¹ The Government of Puerto Rico initially was unable to obligate the totality of the appropriated funds for FY 2020 due to a rejection by the Financial Oversight and Management Board (FOMB) of Puerto Rico to implement the Puerto Rico Poverty Level (PRPL) initiative that would have resulted in an estimated additional 200,000 new beneficiaries joining Puerto Rico's Medicaid program in 2020. The FOMB denied the implementation of the initiative because the appropriated federal funding for Puerto Rico's Medicaid program was only for two years.

In accordance with PROMESA (P.L. 114-187), the FOMB did not want to approve a program with new beneficiaries that would face a fiscal cliff. On October 16, 2020, the FOMB approved the Government of Puerto Rico's petition to temporarily expand Medicaid coverage under the Vital Plan to more than 200,000 new beneficiaries due to the gravity of the COVID-19 pandemic. On December 11, 2020, the Centers for Medicare and Medicaid Services (CMS) approved the Vital Plan.

² Puerto Rico has been working since the Consolidated Appropriations Act of 2020 on improvements to its Medicaid Program requested by Congress. A report on those activities is attached to this statement.

If no action is taken by Congress, the effects would include the following:

- Revert to the \$392.5 million cap and the 55 percent FMAP which is far below the current \$2.8 billion that Congress allocated for FY21. It would create an enormous budget shortfall, and it is far below what is needed to operate the program on a state-like basis, as discussed further below

This funding gap would force the Island's program "Vital" to:

- Rollback all increments afforded to primary care providers as described above
- Un-enroll over 200,000 Medicaid beneficiaries due to a scale back on poverty levels
- Un-enroll between 350,000-400,000 Medicaid beneficiaries in addition to the 200,000 mentioned above to cover the budget gap referenced above

COVID-19 has affected Puerto Rico as severely as it has affected other parts of the Nation, and the impact on Medicaid has been increased expenses to cover tests, vaccinations, and treatments. The program has been able to leverage the additional funding to cover these services without any effect on the negotiated premium. A side effect, however, has been a noticeable and persistent drop in hospital utilization, endangering the long-term viability of several hospitals.

I support the efforts of Resident Commissioner Jenniffer González-Colón and others in Congress to propose changes in Medicaid funding for Puerto Rico that are big, bold, dramatic, and historic, in keeping with the changes this Congress already has enacted with respect to the application of the Child and Earned Income Credits in Puerto Rico. It is time to move from the uncertain and unstable temporary funding system for Medicaid and transition to a state-like program and an FMAP based on Puerto Rico's per capita income relative to that of the Nation.

I recognize that state-like treatment will require an expansion of the Medicaid services offered in Puerto Rico. It is my view that American citizens in Puerto Rico with limited resources should have the same basic healthcare services that Americans enjoy anywhere else in the United States, and we are prepared to work with Congress to transition promptly to a fully-funded state-like Medicaid system.

We ask Congress to seize this moment when Puerto Rico faces a Medicaid cliff and the resulting public health crisis to instead provide adequate and stable long-term funding to provide the life-saving services patients require to meet their medical needs and to retain medical specialists by providing competitive reimbursements as it does for Americans in the fifty states and the District of Columbia.

I thank the members of this Subcommittee for addressing this vital topic and for taking into consideration the health care needs of vulnerable U.S. citizens in Puerto Rico and in the U.S. Territories.