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AVERTING A CRISIS: PROTECTING ACCESS
TO HEALTH CARE IN THE U.S. TERRITORIES
WEDNESDAY, MARCH 17, 2021
House of Representatives,
Subcommittee on Health,
Committee on Energy and Commerce,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:02 p.m. via Webex, Hon. Anna Eshoo [chairwoman of the subcommittee], presiding.

Present: Representatives Eshoo, Butterfield, Matsui, Castor, Sarbanes, Schrader, Cardenas, Ruiz, Kelly, Barragan, Blunt Rochester, Craig, Schrier, Trahan, Fletcher, Pallone (ex officio); Guthrie, Burgess, Griffith, Bilirakis, Long, Bucshon, Hudson, Carter, Dunn, Curtis, Crenshaw, Joyce, and Rodgers (ex officio).

Also Present: Representative Soto.

Staff Present: Jeff Carroll, Staff Director; Waverly Gordon, General Counsel; Tiffany Guarascio, Deputy Staff

28 Director; Saha Khaterzai, Professional Staff Member;
29 Mackenzie Kuhl, Press Assistant; Una Lee, Chief Health
30 Counsel; Meghan Mullon, Policy Analyst; Kaitlyn Peel, Digital
31 Director; Rick Van Buren, Health Counsel; C.J. Young, Deputy
32 Communications Director; Sarah Burke, Minority Deputy Staff
33 Director; Michael Cameron, Minority Policy Analyst, CPC,
34 Energy, Environment; William Clutterbuck, Minority Staff
35 Assistant; Theresa Gambo, Minority Financial and Office
36 Administrator; Marissa Gervasi, Minority Counsel, O&I; Grace
37 Graham, Minority Chief Counsel, Health; Caleb Graff, Minority
38 Deputy Chief Counsel, Health; Brittany Havens, Minority
39 Professional Staff Member, O&I; Jack Heretick, Minority Press
40 Secretary; Nate Hodson, Minority Staff Director; Olivia Hnat,
41 Minority Communications Director; Sean Kelly, Minority Press
42 Secretary; Peter Kielty, Minority General Counsel; Emily
43 King, Minority Member Services Director; Bijan Koohmaraie,
44 Minority Chief Counsel; Clare Paoletta, Minority Policy
45 Analyst, Health; Kristin Seum, Minority Counsel, Health;
46 Kristen Shatynski, Minority Professional Staff Member,
47 Health; Alan Slobodin, Minority Chief Investigative Counsel,
48 O&I; Michael Taggart, Minority Policy Director; and Everett
49 Winnick, Minority Director of Information Technology.
50

51 *Ms. Eshoo. I want to call the Subcommittee on Health
52 to come to order now.
53 And due to COVID-19, of course, today's hearing is being
54 held remotely, and all members and witnesses will be
55 participating via video conferencing.
56 As part of our hearing, microphones, of course, will be
57 set on mute to eliminate any background noise. We know how
58 irritating that is, especially when you are the one that is
59 speaking and there is a lot of noise in the background. So
60 members and witnesses, you have to remember to unmute your
61 microphones each time you wish to speak.
62 And documents for the record should be sent to Meghan
63 Mullon at the email address that we have provided to your
64 staffs, and all documents will be entered into the record at
65 the conclusion of the hearing.
66 The chair now recognizes herself for 5 minutes for an
67 opening statement.
68 My colleagues, in September of this year the five U.S.
69 territories will face a Medicaid cliff. And I use this term
70 because it means that the supplementary Medicaid funding that
71 is provided to the territories through the Affordable Care
72 Act will run out.
73 Now, without this federal funding, over one-and-a-half
74 million enrollees, including many children, could lose their
75 health care.

76 Each is an American citizen, but they are treated
77 differently than the constituents of every member of this
78 subcommittee. Since 1967, the territories have struggled
79 with inadequate federal funding for their Medicaid programs
80 because the Social Security Act capped Medicaid funding for
81 the territories. So since 1978 Congress is on the record
82 noting that the caps on the Medicaid programs severely affect
83 the territories' health and budgets. But there has been no
84 significant statutory change in -- to this part of the Social
85 Security Act in over 50 -- "five-oh'' -- years.
86 So this is a very important hearing that I hope we are
87 going to build on and take action to reverse what I am
88 referring to.
89 Now, because of these restrictions, the territories
90 routinely run out of Medicaid funds. Over the past decade
91 Congress has voted on six separate occasions to provide
92 stopgap funds to certain territories, including as recently
93 as December 2019.
94 Except for a temporary increase in federal funding in
95 fiscal year 2020 and 2021, the funding for the territories is
96 typically three to four times below what a state Medicaid
97 program would receive. In the States the Medicaid program
98 has a flexible financing structure, which guarantees funding
99 if more individuals enroll due to an economic downturn, a
100 pandemic, or a natural disaster. For the rest of us, that is

101 the way it works. But not for the territories.

102 So the territories do not have any guarantee. When
103 disaster strikes, the territories are forced to make hard
104 decisions about coverage and services at the worst possible
105 time. Just when they need it most, that is when it hurts
106 them the most.

107 Fortunately, during the ongoing COVID-19 pandemic and
108 economic downturn, the territories have benefitted from an
109 increased federal match for fiscal years 2020 and 2021.
110 American Samoa, the Northern Mariana Islands, Guam, and the
111 U.S. Virgin Islands received an 83 percent federal match, and
112 Puerto Rico's current federal match is 76 percent. With this
113 additional money, Puerto Rico was able to cover the cure for
114 Hepatitis C for Medicaid patients for the very first time,
115 and the Northern Mariana Islands were able to establish an
116 oncology center to provide cancer treatment locally.

117 But this funding, colleagues, is going to expire on
118 September 30th, which is why the territories, obviously, need
119 a long-term solution to their Medicaid funding so that they,
120 too, can meet the needs of their constituents, as we all work
121 to meet the needs of ours. In Puerto Rico 85 percent of
122 residents report they are worried that they will be unable to
123 access health care if they need it. In American Samoa, Guam,
124 and the Northern Mariana Islands, the public hospitals face
125 staff shortages due to low salaries, poor infrastructure, and

126 high rates of uncompensated care.

127 So if we allow the Medicaid cuts to happen, each of the
128 territories would have to cut -- now, listen to this -- they
129 would have to cut 69 to 94 percent of their Medicaid program
130 in fiscal year 2022. Obviously, percentages this high, we
131 all know, produce dire consequences, and it would -- to
132 hundreds of thousands of American citizens.

133 So we cannot fail to care for so many American citizens
134 based solely on where they live. I think we could probably
135 all agree that this is short-term thinking, except the short-
136 term thinking has been around for an awfully long time, and
137 it has cost the constituents of our colleagues that are with
138 us today to testify, and I am so happy to welcome each one of
139 the representatives.

140 My hope is that the hearing will clear a path forward to
141 a long-term financing solution that fits the needs of the
142 territories and our fellow Americans who are part of them.
143 So thank you, and welcome to our witnesses.

144 We welcome you very warmly to our subcommittee.

145 [The prepared statement of Ms. Eshoo follows:]

146

147 **********COMMITTEE INSERT**********

148

149 *Ms. Eshoo. The chair now recognizes Mr. Guthrie, who
150 is the wonderful ranking member of our subcommittee, for his
151 5 minutes for an opening statement.
152 *Mr. Guthrie. Thank you, Madam Chair. I appreciate
153 that very much. And thank you for this important hearing,
154 and I want to thank the witnesses. I want to thank my
155 colleagues for being here today to -- representing the people
156 you represent. And I want to -- hopefully, we can move
157 forward on this hearing.
158 So today Medicaid funding for five U.S. territories
159 expires September 30th. And I am concerned the result of
160 such an expiration would have a devastating impact on the
161 residents of -- in each of these territories. I am committed
162 to working in a bipartisan way to find a solution that avoids
163 this funding cliff.
164 But unfortunately, the two bills we are discussing today
165 miss the mark, and are not bipartisan.
166 I want to examine how these programs are working for
167 people in the territories, while also improving program
168 integrity and maintaining congressional oversight. We should
169 be working together to achieve these goals to ultimately help
170 these Americans.
171 The hearing today is on the Medicaid programs in the
172 U.S. Virgin Islands, American Samoa, Northern Mariana
173 Islands, Guam, and Puerto Rico. The Federal Government is

174 projected to spend around $3 billion on these programs this
175 year, or roughly half of the annual budget of the FDA. These
176 five programs cover a little over 1.3 million people, but
177 over 90 percent of those are in Puerto Rico. For comparison,
178 in my home state of Kentucky, about one-and-a-half million
179 people participate in Medicaid.

180 This committee has a proud history of working together
181 on these programs. Two years ago we passed unanimously out
182 of committee a bill that would have increased funding for 4
183 years in Puerto Rico and 6 years for the other territories.
184 These bipartisan extensions included new program integrity
185 measures for each program to make sure federal dollars were
186 being spent on the people in these programs. Congress ended
187 up increasing funding for 2 years for all five programs. So
188 we are again here to examine ways to move forward.

189 However, I must point out that, technically, this
190 hearing is a legislative hearing. Although Congress recently
191 passed, in a bipartisan way, the most substantial increase in
192 funding ever to these programs, before us are two partisan
193 bills that remove any guardrails on the amount of federal
194 spending. We anticipate these bills will cost tens of
195 billions of dollars, and include no policy changes to address
196 program integrity, health outcomes, and a framework for
197 increased flexibility.

198 Instead of this partisan approach, we should first look

199 at how the bipartisan measures of increased funding and
200 accountability have worked, and what measures should be
201 continued.
202 It is my hope that the majority will return to the
203 bipartisan tradition of working together on this issue moving
204 forward. Although it is unfortunate the majority chose to
205 start the discussion on these programs with a partisan
206 legislative hearing today, today's hearing is important to
207 discuss the territories' specific needs. Too often, Congress
208 lumps all five programs together. But as we know, we have
209 five distinct populations with five distinct programs, with
210 five sets of challenges and program designs. Understanding
211 the differences in the programs, and making sure any
212 extension considers the unique needs of each population, will
213 be key.
214 We also want to have an open and robust conversation on
215 the program integrity measures that the territories have been
216 working on over the past 2 years. The Government
217 Accountability Office is here today to discuss the report on
218 the contracting issues Puerto Rico and the Center for
219 Medicare and Medicaid Services have had with Puerto Rico's
220 contracting practices.
221 In addition to work -- to the work GAO was doing, the
222 Department of Health and Human Services Office of Inspector
223 General is also conducting two audits of Puerto Rico's

224 Medicaid program. Working with them this spring and summer
225 will be of paramount importance, as we want to be sure that
226 any issues identified are addressed as we work to continue
227 this important funding.

228 Finally, I just want to reiterate my strong desire for
229 this work to be bipartisan. We have seen time and time again
230 that simply pouring money into something doesn't fix the
231 underlying problem. We can address funding needs for U.S.
232 territories, while also ensuring programs better serve
233 residents and program integrity measures are in place. We
234 can do this together, and we can do it together like we have
235 in the past.

236 I look forward to the discussion, and I yield back.

237 [The prepared statement of Mr. Guthrie follows:]

238

239 **********COMMITTEE INSERT**********

240

241 *Ms. Eshoo. The gentleman yields back. I want to say
242 to the gentleman that we have worked with the minority to
243 build this hearing. We worked together on the witnesses.
244 Yes, there are pieces of legislation out there. We
245 welcome the minority putting forth legislation and/or working
246 with the two main authors of legislation, relative to the
247 subject matter of our hearing.
248 But this is not partisan. This is bipartisan. This is
249 about American citizens. And so I look forward to hearing
250 from them, and the gentleman yields back.
251 I now would like to recognize Mr. Pallone, the chairman
252 of the full committee, for his 5 minutes of questions.
253 *The Chairman. Well, thank you, Congresswoman and
254 Chairwoman Eshoo, and I know not only this is an important
255 hearing, but this is something that you care very much about.
256 And for -- I hope I am not missing anybody, but I just
257 wanted to say that I really appreciate the input from all the
258 congresspeople that represent the territories. I mean, I
259 just have to say, you know, Congressman Sablan has been -- I
260 don't think a day goes by without him mentioning this issue
261 to me.
262 And certainly, when -- I think it was in the aftermath
263 of Hurricane Maria -- I know we have had so many hurricanes
264 that I can't even remember which -- the name of it, but I
265 think it was Maria, when we went down to the Virgin Islands

266 with Congresswoman Plaskett, and with Jenniffer, with
267 Congresswoman Gonzalez. And they were talking about this,
268 you know, the whole time, how we need a permanent solution.
269 This just can't be done, you know, by kicking the can down
270 the road.
271 And, of course, ever since he has been elected,
272 Congressman San Nicolas has been talking to me about it, as
273 well.
274 In addition to that, you know, you have, you know,
275 members like Congressman Soto on our committee, and
276 Congresswoman Velazquez, who are of Puerto Rican descent, who
277 -- you know, who constantly bring this to our attention and
278 want solutions.
279 So, look, all of you have been so helpful, and so I am
280 glad that we are having this hearing today, and all of you
281 have an opportunity to express your views. It wasn't that
282 long ago that we had our last hearing on how disastrous it
283 would be for Medicaid funding in the territories to collapse.
284 And I was proud that we were able to work together on a
285 strong bipartisan bill that combined critical increases to
286 the territory's funding and federal medical assistance with
287 FMAP, you know, for program integrity improvements.
288 But look, we know that Medicaid in the territories has
289 been chronically underfunded for decades. The consequences
290 of this inequity can be seen in the crumbling health

291 infrastructure, emergency restrictions on provider networks,
292 the failure to offer coverage of certain lifesaving drugs,
293 and even the debt crisis in Puerto Rico.

294 Years of inadequate Medicaid block grants have forced
295 the territories to divert more of their own dollars to ensure
296 the residents have received the care that they need. And
297 this funding structure has forced the territories to pay more
298 than their fair share for Medicaid, much more than they would
299 have to pay if they were treated like states.

300 Last Congress the committee passed legislation that
301 would have provided several years of increased funding and a
302 higher FMAP to all the territories. Thanks to the leadership
303 of Representatives Soto and Bilirakis, we were able to find
304 common ground on this legislation. Unfortunately, I was very
305 disappointed. At the last minute, former President Trump
306 refused to support our bipartisan, bicameral agreement, and
307 insisted at the last minute on reducing that long-term
308 solution to 2 years. And because of that, we are now once
309 again on the verge of another crisis.

310 I believe the stakes are too high. The consequences of
311 inaction are too tragic to continue down a path of short-term
312 fixes. The territories need a permanent solution to their
313 Medicaid funding shortfalls. They need a solution that
314 assures that they can make improvements to their programs
315 with certainty, and that the increased funds they are relying

316 on will be there for more than a couple of years.
317 Beneficiaries need certainty about the services they
318 critically need and rely on, and permanent improvements to
319 these critical programs and to the health of beneficiaries
320 can only be expected if Congress guarantees permanent,
321 adequate funding.

322 So I am glad our colleagues from the territories could
323 be here today to share their perspectives. I know that
324 bipartisan committee staff recently met with health officials
325 from the territories, and we have also received statements
326 for the record from all the territories.

327 In just over 6 months, the territories will face a
328 catastrophic loss of federal Medicaid funding that will
329 jeopardize access to care. Long before that, the territories
330 will have to begin the process of contingency planning to
331 make the cuts necessary to address this looming fiscal cliff,
332 and this would include limiting reimbursements to providers,
333 reversing expansions of eligibility that provided thousands
334 of residents with access to Medicaid for the first time, and
335 ending coverage of life-saving medications.

336 But we can't allow this to happen. We just can't allow
337 this to happen. So bipartisan members of this committee
338 fought hard last Congress to secure additional Medicaid
339 funding. With that funding they have made tremendous
340 progress. But that progress will be lost if we don't act

341 quickly. So we are going to act. We want a permanent
342 solution. We don't want to kick the can down the road.
343 Thank you again for being here, and thank you to
344 Chairwoman Eshoo for having this hearing, and for all the
345 concern that you have expressed, and leadership on this
346 issue.
347 [The prepared statement of The Chairman follows:]
348
349 **********COMMITTEE INSERT**********
350

351 *The Chairman. I yield back. Thank you.
352 *Ms. Eshoo. The gentleman yields back.
353 Thank you for your good words, Mr. Chairman. The chair
354 now recognizes the ranking member of the full committee, Mrs.
355 Cathy McMorris Rodgers, for her 5 minutes for an opening
356 statement.
357 *Mrs. Rodgers. Thank you --
358 *Ms. Eshoo. Oh, I am sorry.
359 *Mrs. Rodgers. -- Madam Chair --
360 *Ms. Eshoo. Yes, go ahead.
361 *Mrs. Rodgers. Thank you --
362 *Ms. Eshoo. Go ahead, I am sorry.
363 *Mrs. Rodgers. Great. And thanks to my friends and
364 colleagues for being here today.
365 As others have mentioned, increased funding for Puerto
366 Rico, Guam, the Virgin Islands, Northern Mariana Islands,
367 American Samoa expires September 30th. And I am committed to
368 reauthorizing funding in a way that is best for the people
369 who get Medicare -- Medicaid care in the territories. I hope
370 that we can work together on this issue to ensure Medicaid is
371 caring for our most vulnerable in the territories and across
372 America.
373 As I have said many times before, we should be coming
374 together in a bipartisan way to modernize and improve
375 Medicaid, especially for pregnant women and people with

376 disabilities. However, I want to be sure that we discuss
377 three problems I have with this hearing before we have a
378 discussion about extending these important programs.
379 First, it is important that we hear from the territories
380 themselves, and get to ask them questions about their
381 programs. There are serious and valid concerns about how we
382 oversee the Medicaid programs in the territories. If this
383 hearing was later in the year, the OIG could provide an
384 update on their audit. We could review Puerto Rico's report
385 that is due in June.
386 Over the last decade there has been a dramatic increase
387 in the amount of federal taxpayer dollars going to Medicaid
388 programs in the territory. Are we seeing health outcome
389 improvements with that spending?
390 And if we don't have the data to answer that question,
391 there is a gap that we need to address in this
392 reauthorization.
393 Second, we are going to a straight legislative hearing
394 on two partisan bills. These bills are only introduced -- or
395 only have Democrat cosponsors, and they were drafted,
396 unfortunately, without the input from the Republicans. These
397 bills do not address program integrity or getting better data
398 on health care outcomes for those that are in Medicaid.
399 In addition, the last time this committee met on these
400 programs, it reported out bipartisan legislation. It is our

401 hope that the majority will work with us on moving forward in
402 a bipartisan way.
403 And let's not forget that this committee, who moved a
404 bipartisan bill out of committee 2 years ago that would have
405 funded Puerto Rico for 4 years and the other territories for
406 6 years. That work should be our model of how to proceed
407 this year.
408 My third and final concern is not related to the
409 territories, but to request that we do some more work on
410 additional challenges in the Medicaid space. We should be
411 investigating the devastating reports about New York under-
412 reporting COVID-19 deaths in nursing homes. Families deserve
413 justice.
414 As I wrote to the majority 2 weeks ago, we should also
415 be working together to understand more about the troubling
416 reports regarding certain states undercounting, and
417 potentially falsifying reports of COVID-19 deaths in nursing
418 homes. It appears that a few states took actions early that
419 increased the COVID-19 crisis in nursing homes.
420 Washington State was one of the first states with an
421 outbreak of COVID-19, and nursing homes were especially hard
422 hit. Washington State provided additional Medicaid funds to
423 nursing homes accepting COVID-19 patients. We should
424 investigate whether the incentive of increased Medicaid
425 dollars made the crisis worse.

426 This is an important hearing, and I am disappointed that
427 we will not hear or get to ask the questions that I believe
428 need to be asked. Instead, we are going straight to a
429 legislative hearing on a partisan -- on two partisan bills,
430 when we should be gathering facts, working together on
431 legislation to continue federal support of these vital
432 programs.

433 I also encourage the majority to schedule a hearing as
434 soon as possible to learn more about the tools that are
435 available to ensure states accurately report nursing home
436 deaths that COVID-19 or any infectious disease may have, to
437 ensure that future pandemics and Medicaid dollars aren't used
438 as an incentive that ends up further endangering nursing home
439 patients. We owe our families and those who lost someone to
440 COVID-19 nothing less.

441 And with that, I yield back.

442 [The prepared statement of Mrs. Rodgers follows:]

443

444 **********COMMITTEE INSERT**********

445

446 *Ms. Eshoo. The gentlewoman yields back.
447 I just want to say to my Republican colleagues, you
448 know, you can keep saying that a hearing is partisan, it is
449 fine, but it is kind of a broken record.
450 Each one of you are legislators. You have a keen
451 interest in this, as you do.
452 [Audio malfunction.]
453 *Ms. Eshoo. -- territories to start -- to kick off our
454 hearing, each one of them representing a territory. Just as
455 we pride ourselves on knowing our constituents and what their
456 needs are, so do they. So it is a real pleasure to welcome
457 each witness.
458 First, the Honorable Gregorio Camacho Sablan, a long-
459 time friend and Member of Congress representing the
460 Commonwealth of the Northern Mariana Islands, welcome to you,
461 my friend.
462 The honorable Aumua Amata Coleman Radewagen, Member of
463 Congress, and representing American Samoa, welcome to you.
464 The Honorable Stacey Plaskett, Member of Congress
465 representing the U.S. Virgin Islands, thank you for being
466 with us, Stacey, and it is wonderful to have you with us.
467 The Honorable Jenniffer Gonzalez-Colon, Member of
468 Congress representing Puerto Rico.
469 And the Honorable Michael F.Q. San Nicolas, a Member of
470 Congress representing Guam.

471 So a warm welcome from the entire subcommittee to each
472 one of you. It is really an honor to have you with us today.
473 So we are going to begin with Congressman Sablan.
474 You are recognized for 5 minutes, and you need to unmute
475 so we can all hear every word you want to share with us.
476

477 STATEMENT OF THE HON. GREGORIO KILILI CAMACHO SABLAN, A
478 DELEGATE IN CONGRESS FROM THE TERRITORY OF THE NORTHERN
479 MARIANA ISLANDS; THE HON. AUMUA AMATA COLEMAN RADEWAGEN, A
480 DELEGATE IN CONGRESS FROM THE TERRITORY OF AMERICAN SAMOA;
481 THE HON. STACEY E. PLASKETT, A DELEGATE IN CONGRESS FROM THE
482 TERRITORY OF THE U.S. VIRGIN ISLANDS; THE HON. JENNIFFER
483 GONZALEZ-COLON, THE RESIDENT COMMISSIONER IN CONGRESS FROM
484 THE TERRITORY OF PUERTO RICO; AND THE HON. MICHAEL F.Q. SAN
485 NICOLAS, A DELEGATE IN CONGRESS FROM THE TERRITORY OF GUAM
486
487 STATEMENT OF GREGORIO KILILI CAMACHO SABLAN
488
489 *Mr. Sablan. Good morning. Good morning and thank you
490 to Chairs Pallone and Eshoo, and Ranking Members McMorris
491 Rodgers and Guthrie, for holding today's hearing, "Averting a
492 Crisis: Protecting Access to Health Care in the United
493 States Territories.''
494 It feels like Groundhog Day. Not 2 years ago, the
495 Medicaid director from the Marianas testified before this
496 committee, along with their counterparts from other insular
497 areas, on averting the crisis they faced with the end of
498 Obamacare Medicaid money.
499 This -- the subcommittee did avert that crisis, and it
500 is through your work, Public Law, 116-94, and you provided
501 the Marianas Medicaid with $60 million in fiscal year 2020

502 and fiscal year 2021. This funding made a huge difference,
503 especially because the economic effects of this unexpected
504 pandemic doubled medical enrollment in the Marianas from
505 about 16,000 then to 32,000 today.
506 But the money you helped provide was only a temporary
507 fix.
508 Could we have the first slide, please?
509 [Slide]
510 *Mr. Sablan. Come October 1st, funding for Medicaid in
511 the Northern Marianas will drop back to the statutory cap,
512 $7.2 million, or an 88 percent reduction. This is the crisis
513 we now must avert.
514 My proposal in H.R. 265 is simply to repeal the
515 statutory cap. Sixty Members have cosponsored my proposal,
516 including several committee chairs and the two Republican
517 Members whose districts are affected. So my bill is
518 bipartisan.
519 Lifting the cap may seem an invitation to spend, but in
520 fact, the $60 million provided in both fiscal 2020 and 2021
521 have proven an accurate estimate of actual need over the last
522 2 years. And that amount lines up closely with a 2018
523 Congressional Budget Office estimate that permanently lifting
524 the cap for the Marianas will only result in a $15 million
525 annual increase in spending.
526 That relatively modest investment has already proven its

527 worth. Not only was the Marianas Medicaid program able to
528 handle the sudden increase in enrollment as people lost
529 income during the pandemic, the certainty of funding allowed
530 our only hospital, which depends on Medicaid for 44 percent
531 of revenues, to invest in capacity, saving money and
532 increasing quality of care.
533 Could we have the second slide, please?
534 [Slide]
535 *Mr. Sablan. Knowing Medicaid funds would be available,
536 the hospital established an oncology center. Now, instead of
537 sending cancer patients off island to Guam or Hawaii, most
538 can get treatment in the Marianas. And look at the results:
539 off-island referrals down by 90 percent. Not only are we
540 saving transportation and housing costs for off-island
541 referrals, but fewer people sick with cancer must leave their
542 families and face the rigors of travel. What a virtual (sic)
543 circle.
544 By investing in Medicaid, Congress has lowered costs and
545 improved care. How much more the Marianas could do if we had
546 continued certainty of adequate Medicaid funding.
547 Let me note it is not just Medicaid patients who have
548 benefitted from this oncology center. Everyone in the
549 community, even those with private insurance, are better off
550 because of the funding Congress, you, provided in Public Law
551 116-94.

552 But with greater funding comes greater responsibility.
553 And Public Law 116-94 required the Marianas and other insular
554 areas to move towards the same program integrity standards
555 that your states all face. And you will see in testimony our
556 Medicaid agency submitted for today's hearing the Marianas is
557 meeting the program integrity requirements attached to the
558 funding in Public Law 116-94, to the satisfaction of the
559 Centers for Medicare and Medicaid Services. And this
560 determination by CMS did not come in the last 2 months; it
561 was made last year by a Republican Administration, further
562 demonstrating the Marianas' commitment to program integrity.
563 Our legislature passed Public Law 21-35 last year,
564 giving our Medicaid director the authority to transfer
565 funding as necessary to ensure compliance and program
566 integrity measures are always sufficiently funded. It is
567 said she now has more reprogramming authority than our
568 governor.
569 In closing, I suggest we rename today's hearing.
570 Instead of saying we are here to avert a crisis, why don't we
571 acknowledge all the positive benefits that resulted from the
572 increased funding we provided less than 2 years ago? We
573 improved the quality of health care in the Marianas for those
574 insured by Medicaid and for the whole community. We helped
575 reduce costs. We are increasing the program integrity that
576 is so important to us all.

577 So let us not say today's hearing is to avoid a crisis.
578 Let us say we are here to seize an opportunity to lift the
579 cap on Medicaid funding in the Marianas so we can continue
580 the progress we have made.
581 Thank you very much again, Madam Chair, for holding
582 today's hearing. Thank you, everyone, for giving us an
583 opportunity to represent our islands in Congress.
584 [The prepared statement of Mr. Sablan follows:]
585
586 **********COMMITTEE INSERT**********
587

588 *Ms. Eshoo. Thank you --

589 *Mr. Sablan. I yield back.

590 *Ms. Eshoo. Thank you, Congressman Sablan, and from
591 your lips to every member's ears. Thank you for joining us
592 today. It is always wonderful to be with you. You are a
593 friend to all of us.

594 It is now a pleasure to recognize Congresswoman
595 Radewagen for 5 minutes.

596 We welcome you again. We are delighted that you are
597 here, and you need to unmute so we don't miss a word that you
598 want to share with us.

599

600 STATEMENT OF AUMUA AMATA COLEMAN RADEWAGEN
601
602 *Mrs. Radewagen. Talofa lava. Hello, and good
603 afternoon. Thank you, Chairwoman Eshoo and Ranking Member
604 Guthrie, as well as full committee Chairman Pallone and my
605 friend, Ranking Member McMorris Rodgers, for soliciting the
606 views of American Samoa on our Medicaid program.
607 And thank you for consideration of mine and my
608 colleagues' bill on improving the insular areas' Medicaid
609 programs, the Insular Areas Medicaid Parity Act, which will
610 provide stable, permanent funding, lift the caps, and
611 maintain an increase to FMAP for the territories.
612 I know every state and every territory has their unique
613 challenges, as do we. But factually, we are the most remote
614 U.S. jurisdiction in the Medicaid program, almost 10,000
615 miles away, south of the equator, and have not had any
616 commercial air service to our territory almost one year, not
617 since March 23rd, 2020. That was the last commercial flight
618 from Honolulu to American Samoa.
619 Hundreds are still stranded and going through a month-
620 long quarantine process, 2 weeks in Hawaii, 2 weeks in Pogo
621 Pogo, just to get home after being restricted elsewhere in
622 the country. We have had two of six emergency charters from
623 our local government completed, with four more scheduled over
624 the next 3 months. Our health services and only hospital

625 simply cannot handle a sudden influx of thousands of new
626 arrivals at this time.
627 Our newly-elected governor, Lemanu PS Mauga, and
628 Lieutenant Governor Talauega EV Ale have made a submission
629 through their Medicaid director providing updated data on the
630 current capacity, utilization, and program integrity efforts
631 to the committee, and will be providing additional
632 information in the days and weeks ahead.
633 We appreciate the temporary increase in our FMAP, which
634 has been helpful, but we need improvement to our only
635 hospital, which is over 50 years old, in order to expand and
636 improve services and attract broader physician services. And
637 we need more reliable and stable funding than just every 2
638 years. Our residents and veterans face challenging
639 logistics, and most often need to travel to Hawaii for more
640 serious care. And the pandemic has shown us that it has
641 become a limited option to our sick during this crisis. So
642 improvements to our local hospital are needed.
643 In normal circumstances, our people have only two
644 flights per week to get to Hawaii. That limitation would be
645 recognized alone as an emergency in most jurisdictions. Some
646 of my constituents who are stranded are stranded because they
647 were off-island receiving care that they could not get in the
648 territory.
649 So services were reduced due to our closed border

650 policy, but that policy saved lives and prevented COVID from
651 arriving in American Samoa. Today we are the only part of
652 the United States that is COVID free, absolutely.
653 So I ask the committee to maintain our current emergency
654 matching level, eliminate the annual ceiling on federal
655 financial participation referred to as a Section 1108 cap or
656 a Section 1108 allotment. Congress needs to address the
657 funding cliff for the territories. Not doing so would spell
658 financial and medical disaster to our people.
659 During the pandemic emergency we have been adjusted like
660 other jurisdictions, with an additional 6.2 percent federal
661 cost share, so we are at an 89.2 percent FMAP. This has
662 been welcomed, as we are indeed very much in a continued
663 emergency state.
664 And I would argue our program and hospital capabilities
665 have been in an emergency state long before the pandemic.
666 The Army Corps of Engineers recently did a study and report
667 to Congress on the state of the hospital, indicating that it
668 needed a substantial, if not wholesale, modernization,
669 update, or total replacement. The Army Corps found our LBJ
670 Hospital in a state of failure and disrepair due to age and
671 projected repair. And replacement costs between 161 to $900
672 million dollars, depending on minimum modernization or total
673 replacement.
674 American Samoa's Section 1108 Medicaid allotment for

675 fiscal years 2020 and 2021 were raised substantially, from
676 about 12.5 to 86 million, with a temporary FMAP increase from
677 5545 to almost 9010. We were able to stretch our local
678 matching funds. With an improved hospital infrastructure, we
679 could utilize even more, and potentially reach and exceed our
680 current cap for the next few years. Stable, multi-year
681 funding with caps raised will be key to that progress.
682 We do not have sizable tourism or diversified businesses
683 and economies like the other territories. The local
684 government and tuna cannery account for nearly half of local
685 jobs, and our small businesses have taken a huge hit with the
686 island closed off. But our young people continue to serve in
687 record numbers in the armed services, with record per capita
688 enlistments in the Army, and our veterans give so much back
689 to our community. We need to carry them through with an
690 improved hospital VA facility.
691 I look forward to working with members of the Energy and
692 Commerce Committee on our critical Medicaid and hospital
693 funding needs this year.
694 [The prepared statement of Mrs. Radewagen follows:]
695
696 **********COMMITTEE INSERT**********
697

698 *Mrs. Radewagen. Thank you, Chairwoman Eshoo, I yield
699 back.
700 *Ms. Eshoo. The gentlewoman yields back, and the chair
701 thanks her for her passionate testimony. We all could hear
702 it in your voice, what the incredible needs are. And we
703 thank you for being with us today.
704 I am going to go over to the Capitol to vote, and place
705 the committee in the hands of Mr. Sarbanes, who I am sure is
706 going to do a great job.
707 So over to you, and I believe our next witness is
708 Congresswoman Plaskett.
709 And thank you for being with us, our friend.
710 And thank you, John Sarbanes, for taking the -- chairing
711 the hearing until I get back. I appreciate it.
712 *Voice. This meeting is being recorded.
713

714 STATEMENT OF STACEY E. PLASKETT
715
716 *Ms. Plaskett. Thank you so much, Chairwoman Eshoo and
717 Ranking Member Guthrie. I also want to thank the interim
718 chair, Mr. Sarbanes, for controlling the time right now.
719 Members of the subcommittee, thank you for allowing me
720 the opportunity to present a brief statement of the views of
721 the health care concerns of the U.S. Virgin Islands as it
722 relates to the work of this committee in the 117th Congress.
723 The Virgin Islands will need significant investments in
724 health care in this session. Even before our severe
725 hurricane disasters of 2017 and the COVID-19 pandemic, the
726 health care systems in the territories were under great
727 stress.
728 Specifically regarding Medicaid, the arbitrarily high
729 local match required of U.S. territories by federal law
730 imposes severe and unsustainable financial demands. Each of
731 the territories tried earnestly to resolve this with little
732 success. Until beginning in 2018, in the wake of the
733 unprecedented disasters, more equitable matching rates were
734 allowed on a temporary basis.
735 In addition, while overall federal Medicaid funding to
736 the states and the District of Columbia is open-ended,
737 Medicaid in U.S. territories is unfairly subject to annual
738 federal funding caps. Once the cap is reached, the territory

739 must assume the full cost of Medicaid services.
740 While the capped federal funding has been supplemented
741 by additional block grants since 2011, beginning with the
742 Affordable Care Act, and continuing through the Further
743 Consolidated Appropriation Act of 2020, and the Families
744 First Corona (sic) Response Act, the Virgin Islands and all
745 other territories face yet another cliff on September 30th,
746 as has been discussed. And the federal matching funds, the
747 FMAP, will drop precipitously, by over 20 percentage points.
748 Tens of thousands of residents of my district will lose
749 access to health care, unless Congress takes action to
750 eliminate the federal Medicaid fiscal cliff in the
751 territories once and for all.
752 Listen, to have us continually come and beg you for
753 money to be treated equitably is absolutely unfair. And all
754 of us, as Members of Congress, all of you on this committee,
755 should be embarrassed that you have Members of Congress
756 asking you to be treated fairly. This is a bipartisan
757 request. If you have seen all of the Members of the
758 territories, we are not just Democrats. We are Republicans
759 and Democrats, and we are all asking for the same thing. So
760 I do not see why this becomes a question of Republicans and
761 Democrats not all agreeing to what your colleagues, who are
762 Democrat and Republican, are asking of you.
763 We cannot vote on the floor when final passage on this

764 bill comes. But you know what the will of your colleagues
765 are on both sides of the aisles. And the fact that you
766 continually make us request this is frustrating, and it is
767 demeaning to us, as individuals, as Americans, to have to
768 continually ask for this.
769 I am grateful that the committee took action to address
770 the Medicaid cliff in the past to provide an additional
771 stream of Medicaid funds from my home in the Virgin Islands
772 and the other territories. That Medicaid -- normally is only
773 about $19 million. It increased to 128.7 million, and all of
774 that money has been used by our district. All that money was
775 needed.
776 I have here and ask unanimous consent to submit for the
777 record the written testimony of Michal Rhymer-Browne, who the
778 assistant commissioner of our department of human services,
779 who testified before the House Committee on Energy and
780 Commerce on June 20th of 2019.
781 *Mr. Sarbanes. [Presiding.] Without objection, that
782 will be entered into the record. Thank you.
783 [The information follows:]
784
785 **********COMMITTEE INSERT**********
786

787 *Ms. Plaskett. Thank you. And in that testimony, in
788 answer to the ranking member of the full committee, Mrs.
789 Rodgers's, question, we used that money to put in place
790 compliance, as well as oversight over that funds. We have
791 already testified that we have done that.

792 There are pages of points that she makes, putting the
793 goal for IAP opportunity to support the Medicaid program, the
794 data analytical exchange, having -- submitting IAPD to the
795 U.S. Department of Health and Human Services, having MOUs
796 with the Department of Justice to create a Southeastern
797 Unified Program Integrity Project to ensure that this money
798 is used correctly, because we have no intentions for the
799 money not to go to the people who need it most.

800 I have written testimony, and I will submit that for the
801 record, as well. But again, I am asking for the support that
802 you see of the members of the territories who represent, you
803 know, territories both in the Pacific, as well as in the
804 Caribbean, who are all asking for the same thing for the
805 almost four million Americans who reside there.

806 Thank you, and I yield back.

807 [The prepared statement of Ms. Plaskett follows:]

808

809 **********COMMITTEE INSERT**********

810

811 *Mr. Sarbanes. Thank you very much, Congresswoman
812 Plaskett.
813 Resident Commissioner Gonzalez-Colon, you are now
814 recognized for 5 minutes. Thank you.
815

816 STATEMENT OF JENNIFFER GONZALEZ-COLON

817

818 *Miss Gonzalez-Colon. Thank you, Chair.

819 Total federal funding for the territorial Medicaid
820 programs has been inadequate to meet the health care
821 expenditures for patients to receive effective diagnosis,
822 treatment, and care. And as a result of that, territories
823 have to -- have had to finance a proportionally larger share
824 of the program than any of the 50 states, just as the Member
825 just said.

826 Puerto Rico, in this case, has received funds to
827 supplement those provided by the Social Security Act to pay
828 for this Medicaid program. These funds have been
829 characterized by their temporary nature and the need for
830 their renewal on a crisis-to-crisis basis, and for the
831 inequity in the reimbursement formula, which is consistently
832 lower in amount with a lower FMAP, when compared similarly
833 with the states.

834 Americans in Puerto Rico should be able to enjoy a
835 Medicaid program with the same standards and benefits enjoyed
836 by Americans elsewhere, and Congress needs to eliminate the
837 artificial funding limits that have forced, in my case,
838 Puerto Ricans, both beneficiaries and providers, to leave
839 their homes and island's health care system.

840 Just in 2019 Puerto Rico sought additional federal funds

841 to supplement the insufficient Medicaid cap, which, at the
842 time, provided only for approximately ten percent of the
843 program total cost, a program which covers only ten percent
844 -- 10 of the 17 Medicaid mandatory benefits in Puerto Rico.
845 We also requested additional funds for measures which we
846 -- were indispensable for the continued operation of the
847 program, and for the implementation of additional program
848 integrity measures which we have been successfully
849 implementing, and I think it -- that is important to note.
850 Those initiatives took the 2019 baseline Medicaid cost from
851 $2.8 billion to $3.5 billion for the years 2020 and 2021, and
852 were accompanied by an increase of investment from 55 percent
853 to 76 percent.
854 And those initiatives were implemented with $350 million
855 to increase the eligibility from 40 percent to 85 percent of
856 the federal poverty level, just to cover approximately
857 200,000 additional beneficiaries with annual income of less
858 than $20,000 dollars for a family of four a year, $190
859 million to increase reimbursements to Medicare Part B
860 providers and physicians with capitated arrangement.
861 And I need you to know that this increase of 70 percent
862 of the Medicare fee schedule, which is more about 60 percent
863 of the national average Medicare reimbursement, has been
864 instrumental in helping physicians just to stay afloat during
865 this pandemic.

866 Many of the mechanisms included in the CARES Act to
867 provide immediate cash flow to health care providers in
868 Puerto Rico receiving few -- were ineffective with our
869 providers. And why? Because they were receiving fewer
870 dollars per capita from the provider relief fund than any
871 other state, than any other territory, with an example of a
872 per capita distribution on the island of $23.98, compared to
873 the national per capita of $174.14.
874 $116 million to increase hospital reimbursement to at
875 least 90 percent of the Medicare fees schedule, just to
876 compensate for Medicaid beneficiaries' pension losses, given
877 that the hospitals in Puerto Rico are ineligible for Medicaid
878 DHS payments.
879 $38 million to cover hepatitis C treatments, chronic
880 liver disease patients.
881 And to this day, our island is on track to spend the
882 total incremental amount for the sustainability measures by
883 the end of the fiscal year.
884 The additional funding that we were provided in 2019
885 has, just as the chairwoman explained, will expire on
886 September 30th. And the amount of federal funds for Puerto
887 Rico's Medicaid program will revert to approximately $380
888 million, or just about ten percent of the program's current
889 total cost.
890 And this is the reason we need to act swiftly to prevent

891 the territories and Puerto Rico's Medicaid program to -- from
892 becoming underfunded, and to provide sufficient funding to
893 allow for a smooth transition into the next fiscal year
894 without cutting benefits, lowering provider payments, or
895 withdrawing coverage for hundreds of thousands of current
896 beneficiaries in the middle of a pandemic.
897 And that is the reason the governor of Puerto Rico just
898 asked Congress for additional funds for 2020 and beyond, and
899 to achieve a greater degree of equality in programs that are
900 crucial to health care in the island, programs in which
901 Puerto Rico does not have the financial capacity to bear
902 itself, and which are usually provided by Medicaid in the
903 states, such as the non-flu adult vaccination recommended by
904 the CDC, the non-emergency transportation, and diabetes,
905 among many others.
906 I just urge you and all the members of the -- this
907 committee, I mean, this committee went to Puerto Rico and had
908 roundtables with professionals and with the providers, and
909 has addressed this issue in the past, in 2017, in 2018, 2019,
910 2020. And this is time to do it again. Make the funding
911 available for the territories. This is a priority for
912 millions of Americans who depend on it for our health care.
913 And I just want to say thank you for the invitation to
914 testify, and I yield back.
915

916 [The prepared statement of Miss Gonzalez-Colon follows:]

917

918 **********COMMITTEE INSERT**********

919

920 *Mr. Sarbanes. Thank you very, very much for your
921 testimony.
922 Congressman San Nicolas, you are now recognized for 5
923 minutes. Please remember to unmute.
924

925 STATEMENT OF MICHAEL F.Q. SAN NICOLAS

926

927 *Mr. San Nicolas. Thank you, Mr. Chairman, honorable
928 members of the esteemed Energy and Commerce Committee,
929 Chairman Frank Pallone, Ranking Member Cathy McMorris
930 Rodgers, Health Subcommittee Chairwoman Anna Eshoo, and
931 Ranking Member Brett Guthrie.

932 Let me open by expressing my thanks for your
933 graciousness in inviting Guam and our territory to testify at
934 today's hearing, thanking all of you for your leadership in
935 passing Public Law 116-94, which temporarily increased the
936 federal Medicaid assistance percentage, FMAP, for Guam to its
937 current rate of 83 percent federal match to 17 percent local
938 match from the prior 55 percent federal match and 45 percent
939 local Medicaid matching formula, grossly insufficient for
940 communities like Guam, with among the highest per capita
941 poverty levels in the country.

942 Additionally, prior to Public Law 116-94, the pool of
943 available matching funds for Guam was limited to
944 approximately $18 million. And with the sunset of these
945 laws, it will revert to $19.2 million in fiscal year 2022.
946 In the interim, Public Law 116-94 has increased the pool of
947 available funds to approximately $130 million.

948 The whole point of FMAP and a proper pool of federal
949 matching funds is to enable a formulaic basis for our federal

950 government to be able to support the Medicaid program as it
951 is intended. Common sense would assume that, if the Medicaid
952 program is intended to help those of limited resources,
953 similar logic will be applied to the FMAP and Medicaid cap in
954 communities of limited resources to fund Medicaid itself.
955 With Public Law 116-94, such progress towards basic
956 equality for United States territories has been
957 transformative for us in our Medicaid programs in its ability
958 to reach Americans as intended under the law. The current
959 temporary $130 million pool at an 83-17 match translates into
960 a Medicaid program funded at approximately $156 billion
961 overall for Guam, which is $3,612 per Medicaid enrollee,
962 based on our fiscal year 2020 levels of enrollment at 43,185
963 people, and a population of 170,000.
964 Assuming a static level of enrollment and a reversion to
965 FMAP and capped levels and the Medicaid cliff, the amount
966 available per Guam Medicaid enrollee drops precipitously to
967 $757, from 3,612 to 757, a drop of more than 79 percent. As
968 evidently unsustainable as this is, a drill-down of the
969 implications of this bleak outlook only prove it more so.
970 First, even at the current elevated levels, Guam's per-
971 enrollee amount of 3,612 is still 32 percent lower than our
972 next-lowest high-data usability jurisdiction. And even
973 today's elevated levels under Public Law 116-94 do not
974 reflect per capita equity.

975 Second, Medicaid cliff aversion means greater local
976 funding needs to be expended for less federal match under
977 current circumstances. At $18 million local funds, or
978 approximately $8 million, would fund that program entirely,
979 whereas the same $8 million in local funding would result in
980 more than $47 million in program health care, a difference of
981 over 62 percent.
982 Third, Medicaid cliff aversion means a return to
983 Medicaid-induced medical cannibalism for Guam, with lower
984 caps and lower FMAP leaving Guam to fund Medicaid at a higher
985 matching rate, with a smaller pool, and ultimately picking up
986 100 percent of the total costs beyond $750 per enrollee.
987 Such medical cannibalism materializes in deferred maintenance
988 of our facilities and equipment, which today have ballooned
989 our Army Corps of Engineer estimates for a suitable hospital
990 to over $700 million, due to systemic underfunding of our
991 health care system. Medical cannibalism means delayed vendor
992 payments, with an underfunded health care system stretching
993 vendor payments to 90 days and beyond, resulting in
994 exponentially higher risk-based pricing.
995 Further, payment uncertainties implode Medicaid service
996 provider environments. Private health care operators are
997 unwilling or unable to accept Medicaid-eligible patients, due
998 to unsustainable delays in Medicaid and indigent receivables.
999 And finally, let us not forget that historic Medicaid

1000 inequity is but one of many federal inequities that have
1001 exacerbated health care in Guam and in our territories. We
1002 do not have supplemental security income on Guam, leaving our
1003 disabled without a basic level of support, and depriving our
1004 community of a pool of resources to fund the operations of
1005 medical services -- service providers for those SSI eligible.
1006 We do not have the Affordable Care Act and its
1007 corresponding federal subsidies, leaving many of our people
1008 uninsured and underinsured. We must work to also remedy
1009 these health care gaps for our Americans on Guam to truly
1010 build an equitable health care system.
1011 The only solution equitable for Americans in Guam is
1012 actual equity. Let us complete the work of Public Law 116 -
1013 94 by permanently closing the territorial and Guam Medicaid
1014 gap with FMAP levels concurrent with the rest of the country,
1015 and lifting of the Medicaid cap also concurrent with the rest
1016 of the country.
1017 Thank you, and God bless the United States, tribes, and
1018 territories of America.
1019 [The prepared statement of Mr. San Nicolas follows:]
1020
1021 **********COMMITTEE INSERT**********
1022

1023 *Mr. Sarbanes. Thank you very much, Congressman San
1024 Nicolas, and I want to thank all of my colleagues, our
1025 colleagues, for their passionate testimony. There is no
1026 passion greater than fighting for your constituents, and
1027 certainly that was evident today. So thank you all for being
1028 with us.

1029 We are now going to turn to a second panel of witnesses
1030 on this very important issue and the challenges that are
1031 faced in the territories: Dr. Anne Schwartz, who is the
1032 executive director of the Medicaid and CHIP Payment and
1033 Access Commission; and Ms. Carolyn Yocom, director of health
1034 care for the Government Accountability Office.

1035 So we are looking forward to hearing from both of you on
1036 this topic.

1037 Dr. Schwartz, you are now recognized for 5 minutes.
1038 Please remember to unmute, thank you.

1039

1040 STATEMENT OF ANNE SCHWARTZ, PH.D., EXECUTIVE DIRECTOR,
1041 MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION; AND CAROLYN
1042 YOCOM, GOVERNMENT ACCOUNTABILITY OFFICE
1043
1044 STATEMENT OF ANNE SCHWARTZ
1045
1046 *Ms. Schwartz. Thank you, and good afternoon, members
1047 of the Health Subcommittee. I appreciate the opportunity to
1048 share MACPAC's work as this body considers next steps in
1049 Medicaid financing for the five U.S. territories.
1050 As you know, MACPAC is an independent, nonpartisan
1051 advisory body charged with analyzing and reviewing Medicaid
1052 and CHIP policies, and making recommendations on issues
1053 affecting these programs. I want to note that we do not
1054 conduct oversight or do audits.
1055 Medicaid and CHIP play a vital role in providing access
1056 to health care for low-income individuals in the territories.
1057 The challenges are similar to those in the states:
1058 populations with significant health care needs, an
1059 insufficient number of providers, and constraints on local
1060 resources. With some exceptions, territories operate under
1061 similar federal rules as states, and are subject to oversight
1062 by CMS.
1063 It is frequently said that, if you have seen one
1064 Medicaid program, you have seen one Medicaid program, and

1065 this is because, despite common rules, states have a lot of
1066 flexibility in how they manage their programs. But for the
1067 purposes of the hearing today, it is important to note both
1068 that territory Medicaid programs differ from the states, and
1069 that they also differ from each other. And these differences
1070 reflect their unique geography, history, local economy, and
1071 health system infrastructure.

1072 My written statement goes into detail as to how Medicaid
1073 operates in the territories, and if you are interested in
1074 even more information you can find factsheets on the MACPAC
1075 website describing each territory's policies related to
1076 eligibility, benefits, delivery system, data and reporting,
1077 quality, and program integrity. But the most important point
1078 I want to underscore today is that federal policy for
1079 financing Medicaid in the territories has led to chronic
1080 underfunding. This is because the policy differs from the
1081 states in two key ways.

1082 First, territorial Medicaid programs are constrained by
1083 a ceiling on funding referred to as the Section 1108 cap or
1084 allotment. Territories receive a relatively small, set
1085 amount of federal funding each year, regardless of changes in
1086 enrollment and use of services. And in comparison, states
1087 receive federal matching funds for each state dollar spent
1088 with no cap.

1089 Second, the federal medical assistance percentage, the

1090 FMAP or matching rate, is statutorily set at 55 percent. For
1091 the states the FMAP provides higher reimbursement to those
1092 with lower per capita incomes relative to the national
1093 average, and vice versa, in order to reflect states'
1094 differing abilities to fund Medicaid from their own revenues.
1095 If the FMAPs for the territories were set using the formula
1096 used for the states, the matching rate for all five
1097 territories would be much higher and, for most, the maximum
1098 of 83 percent.
1099 Now, Congress has stepped in at multiple points with
1100 fiscal relief, notably in the consolidated appropriations
1101 bill passed in December 2019, which increased the 1108
1102 allotments for fiscal year 2020 and 2021, and temporarily
1103 raised the FMAP to 76 percent for Puerto Rico, and 83 percent
1104 for the other territories. This legislation also directed
1105 the territories to make certain programming -- programmatic
1106 improvements related to data reporting and programming
1107 integrity. And to our knowledge, they have either addressed
1108 these issues or made important progress.
1109 The Families First Coronavirus Relief Act enacted last
1110 March further increased the 1108 allotments, and extended to
1111 the territories a 6.2 percentage point increase in the FMAP
1112 through the end of the quarter in which the public health
1113 emergency ends. This is the same FMAP increase as received
1114 by the states.

1115 So, as a result of these actions, all five territories
1116 now have enough money to cover program expenses through the
1117 end of this fiscal year. However, without additional
1118 congressional action, we anticipate that they will all
1119 experience funding shortfalls at some point in fiscal year
1120 2022. And at this time MACPAC does not have sufficient data
1121 on actual or projected spending to comment on the exact date
1122 of exhaustion.

1123 In the face of such a shortfall, the territories will
1124 make -- have to make tough decisions. The options before
1125 them, including funding Medicaid entirely with unmatched
1126 local funds -- a scenario we think is unlikely -- cutting
1127 services, reducing or suspending provider payments, or some
1128 combination of these strategies. It is worth noting that
1129 territories like states are currently prohibited from
1130 decreasing eligibility standards or just enrolling
1131 beneficiaries if they accept the increased FMAP provided in
1132 the Families First legislation.

1133 The history of responding to crises with a short-term
1134 infusion of funds has caused a great deal of uncertainty.
1135 And while an additional time-limited allotment of funds would
1136 certainly prevent fiscal cliff, it would ensure that, in the
1137 short term, a continued delivery of services. But it would
1138 not address the underlying challenges with a financing
1139 structure that make it difficult for territories to plan,

1140 manage, and sustain long-term, reliable access to care for
1141 Medicaid beneficiaries residing in these territories.
1142 Thank you for the opportunity to share MACPAC's work,
1143 and I am happy to answer any questions.
1144 [The prepared statement of Ms. Schwartz follows:]
1145
1146 **********COMMITTEE INSERT**********
1147

1148 *Mr. Sarbanes. Thank you very much. I appreciate that,
1149 you were exactly 5 minutes. Well done.
1150 Ms. Yocom, you are now recognized for 5 minutes. Please
1151 remember to unmute yourself. Thanks very much for being
1152 here.
1153

1154 STATEMENT OF CAROLYN YOCOM

1155

1156 *Ms. Yocom. My pleasure. Chairwoman Eshoo, Ranking
1157 Member Guthrie, and members of the subcommittee, I appreciate
1158 the opportunity to discuss GAO's most recent work looking at
1159 the Medicaid program in Puerto Rico.

1160 My remarks today focus on key findings from our February
1161 report that evaluated federal oversight of Puerto Rico's
1162 Medicaid contracting process. I am going to focus on our
1163 findings as they relate to Puerto Rico's contracting reform
1164 plan, and then also discuss some additional actions needed to
1165 improve Medicaid program oversight.

1166 Contracting is central to many states and territories'
1167 Medicaid programs, and effective contracting relies on
1168 competition. Competition can reduce costs, improve
1169 contractor performance, curb fraud, and promote
1170 accountability. Through an open, competitive process, states
1171 and territories can evaluate and select contractors who
1172 provide the greatest value to their Medicaid programs.

1173 Puerto Rico's plan to reform Medicaid contracting
1174 outlines a process, but doesn't yet offer details on the
1175 substance of the actions it will take. For example, it sets
1176 timeframes for determining reforms, but it offers limited
1177 information on what these reforms will be, and the extent to
1178 which they will result in a more competitive process. It is

1179 not clear what changes will occur.

1180 And changes are needed. Our review of eight contracting
1181 processes did find that one competitive process, the largest,
1182 fully disclosed information on factors used to evaluate the
1183 proposals and make awards. We didn't find such information
1184 on the other two processes. And our -- in the five non-
1185 competitive contracting processes reviewed, three lacked any
1186 justification for excluding competition, and the reasons for
1187 the remaining were not clear.

1188 Officials explained that Puerto Rico law does not
1189 require competition. However, competitive contracts can
1190 reduce risks of waste, fraud, and abuse. The concerns we
1191 identified underscore the need for federal oversight.

1192 Unfortunately, the Centers for Medicare and Medicaid
1193 Services, or CMS, does not oversee Puerto Rico's contracting
1194 procedures, leaving the program at risk. CMS officials
1195 noted, however, that the agency has treated Puerto Rico the
1196 same as other U.S. territories and states, and that CMS does
1197 not oversee Medicaid contracting procedures in any state or
1198 territory.

1199 Nationwide, contracts make up at least half of Medicaid
1200 spending. And in Puerto Rico, this percentage is 96 percent.
1201 CMS has taken the position that the states and territories
1202 are best suited to ensure compliance with their respective
1203 laws. We recommended that CMS take steps to implement

1204 ongoing risk-based oversight of Puerto Rico's Medicaid
1205 contracting procedures, citing CMS's statutory requirement to
1206 ensure the administration of Medicaid programs using
1207 necessary methods for efficient program operations. The
1208 agency agreed.

1209 As I believe every witness so far has presented, GAO's
1210 work also shows the challenges that Puerto Rico and the
1211 territories face, compared with state Medicaid programs.
1212 Congress has increased funding, allowing the territories to
1213 avoid funding shortfalls or to cover more services. However,
1214 our work shows that the temporary and inconsistent nature of
1215 these increases create uncertainty, and can complicate
1216 efforts to maintain program changes and retain and then
1217 sustain fiscal health. These concerns are real.

1218 The need for an increased focus on program integrity is
1219 also critically important. Some improvements, such as Puerto
1220 Rico establishing a Medicaid fraud control unit, have been
1221 taken. However, more actions are needed to ensure Medicaid
1222 spending is meeting the needs of Puerto Rico's beneficiaries.

1223 As Congress considers changes to funding the
1224 territories' Medicaid programs, Puerto Rico and other
1225 territories must continue to develop and carry out planned
1226 reforms, measuring their results, and adjusting oversight as
1227 needed to better ensure the efficient use of Medicaid.

1228 This concludes my prepared statement.

1229 I would be pleased to answer any questions.

1230 [The prepared statement of Ms. Yocom follows:]

1231

1232 **********COMMITTEE INSERT**********

1233

1234 *Ms. Eshoo. [Presiding.] I want to thank --

1235 *Mr. Sarbanes. Ms. Eshoo, I think you are back, so I
1236 will turn the reins back over to you, and I will go vote.
1237 Thanks very --

1238 *Ms. Eshoo. Thank you very much, Mr. Sarbanes. I am
1239 sure it went as smooth as glass. Thank you very much.

1240 And thank you to each one of our colleagues who came to
1241 be witnesses today. We really appreciate it. First of all,
1242 I appreciate it. I think it is a great way for us to begin
1243 our hearing, and to the witnesses, to the other witnesses
1244 that are with us.

1245 We are now going to move to member questions, and I am
1246 going to recognize myself first for 5 minutes.

1247 To Dr. Schwartz, the last time you testified before our
1248 committee you explained that the caps were made in law in
1249 1967 -- 1967, that is 33, 43, 55 years ago. Do you know what
1250 Congress's reasoning was for putting the caps in the Social
1251 Security Act?

1252 What was -- do you know what the intent was, what maybe
1253 the debate would have been?

1254 I really -- I will be real frank with you. I think that
1255 there is a lot of bias in this, but that is my thinking. So
1256 can you tell us why they did this?

1257 *Ms. Schwartz. I wish I could tell you. This is
1258 something they have looked into, because it is frequently

1259 asked.

1260 And so we don't know what factors Congress considered
1261 when setting the amounts of those caps. They have been
1262 commented on as being insufficient going back to the late
1263 1970s. So I am sorry, but the legislative history is not
1264 crystal clear on this.

1265 *Ms. Eshoo. I see. And when we talk about a long-term
1266 solution, how would you describe it?

1267 How would you advise us?

1268 That is what we want to do, or many of us want to do,
1269 maybe some don't. How would you spell that out to us?

1270 *Ms. Schwartz. So let me first say, in speaking on
1271 behalf of the 17 members of the Commission, the Commission
1272 hasn't come up with a specific proposal for a long-term
1273 solution. And I think that we have merely pointed out that
1274 the short-term fixes are problematic, because they don't
1275 provide an opportunity for the territories to plan and
1276 implement in scale and phase the programmatic improvements
1277 that --

1278 *Ms. Eshoo. Well, they -- the hospitals that our
1279 colleague pointed out is a case in point. I mean, the
1280 hospital is falling apart. Other territories are having to
1281 fly patients to other areas. It is expensive to do that.
1282 Each one should have -- be able to have their own system. If
1283 people get sick, they should be covered.

1284 So to Ms. Yocom, is there anything inherent to the
1285 territory's financing structure that helps prevent fraud or
1286 abuse?
1287 For example, you found that the territories' block
1288 grants result in stronger program integrity than if there was
1289 the open-ended funding structure that the states have. Can
1290 you elaborate on that?
1291 *Ms. Yocom. Congresswoman --
1292 *Ms. Eshoo. Did you find any evidence of increases in
1293 fraud, thanks to the increase in funding?
1294 It seems to me that there are some that are drawing a
1295 nexus between the two . So can you be specific about that?
1296 *Ms. Yocom. Sure. I don't believe that that
1297 necessarily is the right conclusion to draw from our work.
1298 Our work has found that, very similar to what Dr.
1299 Schwartz has mentioned, that the changes to the -- the
1300 uncertainty of the funding stream does cause a lot of issues
1301 for any entity. And --
1302 *Ms. Eshoo. Of course.
1303 *Ms. Yocom. -- the territories are not to be excluded.
1304 When you have a block grant, compared with a stream that is
1305 dependent on needs and beneficiary growth and changes, you
1306 have a very different set of circumstances and a very
1307 different --
1308 *Ms. Eshoo. Yes, but we already know that. We already

1309 know that. We are all saying that.

1310 *Ms. Yocom. Right --

1311 *Ms. Eshoo. But I am asking you about the specifics
1312 relative to -- so you do -- let me put it this way. You do
1313 not find any nexus between fraud in an open-ended funding
1314 structure and what the territories have today?

1315 *Ms. Yocom. I don't -- I do not believe our work has
1316 made that kind of a connection, no --

1317 *Ms. Eshoo. Has anybody's work concluded that?

1318 *Ms. Yocom. Not that I am aware of, but --

1319 *Ms. Eshoo. Dr. Schwartz, has anyone brought forth
1320 evidence relative to a supposed nexus between fraud and abuse
1321 and an open-funded -- you know, the way the states -- the way
1322 Medicaid operates for the 50 states?

1323 *Ms. Schwartz. Not that I am aware of.

1324 *Ms. Eshoo. It is so interesting that this thing keeps
1325 coming up. It is like a bad penny.

1326 Anyway, well, I think that my time is used up. The
1327 chair will now recognize the -- again, the wonderful ranking
1328 member of our subcommittee, Mr. Brett, for his 5 minutes of
1329 questions.

1330 *Mr. Guthrie. Thank you, Madam Chair, I appreciate it.
1331 And thanks for everybody being here, my colleagues prior, who
1332 testified.

1333 And I just want to comment on my opening statement. You

1334 know, the subject matter is not part of -- this is a
1335 bipartisan subject matter we all know we need to -- have to
1336 address, and we have to fix. The difference I was saying is,
1337 instead of having a hearing, we are having a legislative
1338 hearing on specific pieces of legislation that doesn't have
1339 bipartisan input and bipartisan -- so we need to work
1340 together as we move forward on this, and that is what we need
1341 to do.

1342 And first, you know, one of the questions is the cap.
1343 And I think all of us -- and I have talked with several of my
1344 colleagues, spent some time meeting with Delegate -- Resident
1345 Commissioner Gonzales quite a bit, and talked to others about
1346 the level of the cap. And the cap is sufficient. The cap in
1347 statute that we have had to relieve several times is not
1348 sufficient. It is low.

1349 And so, you know, the question -- before we say is a cap
1350 right or wrong, the question is, is the cap accurate. If it
1351 is an accurate cap, is it right? And that is kind of where
1352 we are trying to go with it.

1353 And Ms. Schwartz, as we know, none of the territories
1354 have requested additional funding over the past 2 years.
1355 Would you agree that this would indicate that the cap amount
1356 put in place and trended forward for the past 2 years has
1357 been, at a minimum, sufficient to cover the needs of each of
1358 the territories?

1359 *Ms. Schwartz. I think that the amount of funding that
1360 has been available for the past few years has been
1361 substantially higher than what was available historically,
1362 and we have not heard that it has been insufficient. Twenty
1363 twenty was a very -- year in spending throughout the U.S.,
1364 because of COVID, and so there is some issues around unspent
1365 funds there.

1366 But, you know, year-to-year spending trends can be hard
1367 to interpret. But I think we haven't heard anything about
1368 these amounts being insufficient.

1369 *Mr. Guthrie. Thanks, thanks. You know, a cap that is
1370 too small is "problemsome''. A cap that is accurate is --
1371 that is what we would like to address.

1372 And so, Ms. Yocom, and -- so talking a little bit about
1373 -- you said we can conclude certain things from your report.
1374 But in your report, the GAO report, you mentioned contracting
1375 and procurement concerns that have arisen at both CMS and
1376 Puerto Rico.

1377 Around that time Puerto Rico released a report on how
1378 they planned to address program integrity issues, moving
1379 forward. So then my question would be are there issues
1380 within Puerto Rico's report that we should watch closely,
1381 such as issues that are not in alignment with your report?

1382 *Ms. Yocom. You know, I think what is important to keep
1383 an eye on is there is two reporting timeframes that Puerto

1384 Rico has set. One is in April, where they will discuss ways
1385 to make their contracting procedures more competitive, which
1386 is a good thing. And then the end is at the end of the year,
1387 in 2021, there will be further outlines of timeframes and
1388 implementation. I think keeping track of both of those is
1389 going to be important, and getting more detail on what steps
1390 are going to be taken to make the process more competitive.
1391 *Mr. Guthrie. Okay, thank you. And then, Ms. Yocom
1392 also, in your testimony you write that in 2018 procurement
1393 costs represented 2.4 billion of Puerto Rico's 2.5 billion in
1394 total Medicaid expenditures. That is a startling number,
1395 given that a 2019 federal indictment led to the arrest of
1396 Puerto Rico officials who unlawfully steered Medicaid
1397 contracts to certain individuals.
1398 We know that CMS requires states and territories to use
1399 the same process for Medicaid procurements as they do for
1400 nonfederal procurements. However, CMS has not taken steps to
1401 ensure Puerto Rico has met this requirement. Should
1402 requiring CMS to ensure Puerto Rico has taken the steps be
1403 something we should consider putting into place?
1404 *Ms. Yocom. I think it would be important to consider
1405 that for, not just Puerto Rico, but for the states, as well.
1406 It is clear that CMS doesn't know for certain what is
1407 happening, in terms of following procurements.
1408 *Mr. Guthrie. Okay, thank you. And I just want to

1409 interrupt again, I know we have discussed my opening
1410 statement, and the concern with the two bills is that I want
1411 to make sure our colleagues and my fellow members of this
1412 committee that -- the current system -- I know we have
1413 changed the caps temporarily -- is not sufficient, and it
1414 needs to be addressed, and we want to address it. We want to
1415 just work together, moving forward to address it.
1416 So I appreciate the time, and I guess I will go vote and
1417 come right back. But Madam Chair, I appreciate the time, and
1418 I yield back.
1419 *Ms. Eshoo. The gentleman yields back. I always
1420 appreciate what the gentleman says. I just want to add to
1421 the record, though, that the two bills on this subject matter
1422 are bipartisan. They are bipartisan.
1423 *Mr. Guthrie. There are bipartisan sponsors, right,
1424 that is right. I am just saying we are going to work
1425 together --
1426 *Ms. Eshoo. They are.
1427 *Mr. Guthrie. -- with the committee to --
1428 *Ms. Eshoo. And I think that is very important. I
1429 think sometimes the cosponsorship of our colleagues from the
1430 territories seems to be worth 75 percent, rather than 100
1431 percent. But these bills are bipartisan, and they are a part
1432 of it. So -- which I think is wonderful. So we look forward
1433 to working with you on it.

1434 The chair now recognizes Mr. Pallone, chairman of the
1435 full committee, for 5 minutes of questions.
1436 *The Chairman. Thank you, Chairwoman Eshoo, and thanks
1437 for emphasizing the bipartisan nature of the bills, because
1438 we have approached this in a bipartisan way in the past, and
1439 will continue to. Thank you.
1440 I mean, the concern that I have, obviously, is that, if
1441 Congress fails to act, and the territories go over the
1442 Medicaid fiscal cliff, the consequences are devastating. And
1443 I know that we have a number of territories here, but in
1444 Puerto Rico alone I understand it is possible that hundreds
1445 of thousands of people could lose their Medicaid coverage if
1446 the island doesn't receive additional federal funding. And,
1447 you know, that is ridiculous, in the context of a pandemic.
1448 And also, you know, this is a crisis of our own making.
1449 I mean, Puerto Rico has this Medicaid block grant. And, as a
1450 result, since 2009 Congress has intervened eight times to
1451 either increase their funding or increase their FMAP. And,
1452 you know, I just don't want to do this. I don't want to keep
1453 kicking this can down the road because the way we do this
1454 Medicaid in the territories is fundamentally broken, and now
1455 is the time to fix it.
1456 So let me ask Dr. Schwartz. Initially, can you explain
1457 why so many people lose coverage if the territories go over
1458 the fiscal cliff, if you would?

1459 *Ms. Schwartz. So it is basically simple math. If you
1460 have less money to spend, there are typically three things
1461 you can do: you can cut people; you can cut payment rates;
1462 or you can cut benefits.

1463 And when payment rates are low, that may be a difficult
1464 strategy. When benefits have been provided, and there are
1465 not many optional benefits are provided, it is harder to cut
1466 those. And so that is the consequence.

1467 *The Chairman. Well, I think it is also critical --
1468 thank you, really, Doctor. But it is really critical to
1469 understand who is going to lose coverage, right? These are
1470 Medicare -- I am sorry, Medicaid, Medicaid beneficiaries. So
1471 we are talking about, generally, very low-income individuals,
1472 is that correct?

1473 *Ms. Schwartz. Yes.

1474 *The Chairman. And then, if you use Puerto Rico as an
1475 example -- you know, I apologize to the others, but if you
1476 use Puerto Rico as an example, it uses its own eligibility
1477 levels for Medicaid, and that -- they are generally lower
1478 than those that are used in state programs.

1479 So in this scenario, a family of four with a monthly
1480 income of $943, which is lower than the federal poverty level
1481 for one person in the contiguous states, those people could
1482 lose their coverage, is that right?

1483 *Ms. Schwartz. Yes, generally, although I want to note

1484 that Puerto Rico did implement a temporary eligibility
1485 expansion, up to 85 percent of the federal poverty level, at
1486 the end of the fiscal year, which would allow a family of
1487 four to make approximately $1,800 per month and remain
1488 eligible. But your general point is correct.

1489 *The Chairman. All right. And then, given their low
1490 income, it is safe to assume that the people who lose
1491 Medicaid would not be able to afford private insurance. Is
1492 that correct?

1493 *Ms. Schwartz. Yes.

1494 *The Chairman. So we know that declines in coverage
1495 lead to declining overall health. When an uninsured person
1496 needs care, they tend to show up in an emergency room. So
1497 what do you expect is going to happen to the health of these
1498 individuals at risk of losing their Medicaid coverage?

1499 *Ms. Schwartz. I think we would expect that people
1500 would not seek care unless they were in crisis, and that
1501 means that they would not receive preventive care, which
1502 could be immunizations or routine screenings. They also
1503 wouldn't get maintenance care for chronic conditions such as
1504 high blood pressure.

1505 *The Chairman. Yes. So, I mean -- let me thank you,
1506 Dr. Schwartz.

1507 You know, Jenniffer and Stacey and Gregorio, I don't
1508 want you to misunderstand what I am saying. I mean, I

1509 believe the territories would only roll coverage back as a
1510 last resort, but without these additional federal funds they
1511 may have not -- they may not have a choice. And that is a
1512 choice they should never -- that, you know, the territories
1513 should never have to make. And we just have to stop -- I
1514 know I sound like a broken record, but we have to stop.
1515 Madam Chair, we have to stop these short-term fixes and
1516 look for a permanent solution. So that is what I know you
1517 are trying to do in the context of the Health Subcommittee,
1518 and all of us in the context of the full committee. And, you
1519 know, I just want to make a pledge to all our congresspeople
1520 from the territories that we understand this, and this is
1521 what we want to do. We want to have a permanent solution.
1522 Thank you, Chairwoman Eshoo.
1523 *Ms. Eshoo. Thank you, Mr. Chairman. He yields back.
1524 It is a pleasure to recognize the ranking member of the
1525 full committee, Congresswoman Cathy McMorris Rodgers, for 5
1526 minutes of questioning.
1527 *Mrs. Rodgers. Thank you. Thank you, Madam Chair, and
1528 thank you, everyone, for being with us this afternoon.
1529 I wanted to start with Ms. Schwartz, and I just wanted
1530 to ask, do we have any data on health -- the health outcomes
1531 in the territories, and potential changes in those outcomes
1532 since the Federal Government has increased the funding for
1533 Medicaid in the territories?

1534 *Ms. Schwartz. Sure. In general, I want to say that,
1535 in Medicaid, most of the data are focused on managed care
1536 arrangements. And four of the territories operate primarily
1537 on fee-for-service, with Puerto Rico being the only one in
1538 managed care.
1539 And Puerto Rico is moving to increase its various
1540 initiatives around quality, including reporting measures to
1541 the CMS scorecard, having plan level report cards, using an
1542 external quality review organization to calculate quality
1543 measures. And so that is all the infrastructure, the
1544 baseline activities that it would need to be able to assess
1545 quality.
1546 Most of those measures are based on process measures,
1547 receipt of certain services that would be recommended from a
1548 clinical perspective, and that would be similar to the
1549 states, for which there are relatively few outcome measures,
1550 I would say, with the exception of low birth weight.
1551 *Mrs. Rodgers. Yes, it is something that I would like
1552 to see us consider as we are looking at Medicaid, both for
1553 the territories and beyond, because I think one of the
1554 valuable aspects of the Medicaid program is that we can see
1555 better outcomes, we can provide some flexibility to look at
1556 getting better outcomes for individuals, potentially even
1557 lowering costs, but making sure that that is also built --
1558 those kind of measures are built into the program that are

1559 encouraging the focus on improved health outcomes. I would
1560 like to see that included. Is that something that you think
1561 would be beneficial for Congress?
1562 *Ms. Schwartz. I think the caution that I would provide
1563 would be just ensuring that you have the -- that the
1564 territories have the necessary infrastructure and the scaled
1565 infrastructure to do those sorts of activities. And I think
1566 Puerto Rico has been working on that. And the activities for
1567 the other territories would also have to be sort of scaled to
1568 what their capabilities are.
1569 *Mrs. Rodgers. Okay. Another question, the Medicaid
1570 benefits vary across the territories. American Samoa and
1571 CNMI are not required to offer all mandatory Medicaid
1572 benefits under their Section 1902(j) waivers. Guam, Puerto
1573 Rico, and the Virgin Islands are required to offer all
1574 mandatory benefits, and are not eligible for the 1902(j)
1575 waiver. And currently, Guam is the only territory that
1576 offers all mandatory benefits.
1577 I would be interested in knowing -- do you think that
1578 the Federal Government would have better insight into the
1579 programs, and why certain benefits are or are not offered in
1580 each of the territories, if those territories could get the J
1581 waiver, similar to the American Samoa and the Northern
1582 Mariana Islands?
1583 *Ms. Schwartz. I am not sure if the availability of

1584 those services is tied to the authority, the J waiver, versus
1585 operating under another authority as to the availability of
1586 the providers to provide the specific services in those
1587 territories.

1588 So I am not sure what else I could say.

1589 *Mrs. Rodgers. Okay.

1590 *Mr. Sablan. May I suggest something? This is
1591 Sablan --

1592 *Mrs. Rodgers. Yes.

1593 *Mr. Sablan. -- Ranking Member.

1594 *Mrs. Rodgers. Yes.

1595 *Mr. Sablan. Yes, I think, for the Northern Marianas,
1596 it is possibly the limited number of specialized care that is
1597 available in our community. That is why we sent some
1598 patients here, whether both in Medicaid or in private
1599 insurance, sent them off to Guam, to Honolulu, to Hawaii.
1600 And so that is possibly one reason.

1601 The other reason, which Ranking Member Guthrie brought
1602 up, is that nobody asked for more money. It is because we
1603 get a block grant, and our Medicaid agencies are told to
1604 operate within that block grant, you are not going to -- you
1605 shouldn't expect additional money for this particular fiscal
1606 year.

1607 I hope that may provide help, some idea of why we have
1608 that waiver.

1609 *Mrs. Rodgers. Okay, that is helpful, I appreciate you
1610 adding those comments.
1611 *Miss Gonzalez-Colon. Ranking --
1612 *Mrs. Rodgers. Yes?
1613 *Miss Gonzalez-Colon. Can you -- it is Jenniffer
1614 Gonzalez. Can you yield just 10 seconds?
1615 *Ms. Eshoo. I think that, well, the time has expired,
1616 and I would just like to add that one of the rules of the
1617 committee, the overall committee, is that once witnesses have
1618 spoken, they can't go back to have them speak again. So --
1619 with members.
1620 *Mrs. Rodgers. Okay.
1621 *Ms. Eshoo. Okay?
1622 So, Mr. Sablan, you got yourself in under the wire
1623 there, my friend.
1624 *Mr. Sablan. My apologies.
1625 *Mrs. Rodgers. Okay.
1626 *Ms. Eshoo. Okay?
1627 *Mrs. Rodgers. I will talk to them individually. I do
1628 have some further questions --
1629 *Ms. Eshoo. We will --
1630 *Mrs. Rodgers. Thank you very much.
1631 *Ms. Eshoo. Sure.
1632 *Mrs. Rodgers. I will yield back.
1633 *Ms. Eshoo. The gentlewoman yields back, and of course,

1634 all members have the opportunity to submit questions to all
1635 of our witnesses. And that is always an important part of
1636 what we do. And I know I always take advantage of it, and
1637 others should, as well.

1638 It is a pleasure to recognize the gentlewoman from
1639 California, Ms. Matsui, for her 5 minutes of questioning.

1640 *Ms. Matsui. Thank you very much, Madam Chair, for
1641 calling this very, very important hearing.

1642 I am really deeply concerned about the devastating
1643 impact the upcoming Medicaid fiscal cliff may have on
1644 patients and providers in the territories. And while it has
1645 been positive to hear about the improvements the territories
1646 have been able to make over the past 2 years with increased
1647 funding to the Medicaid programs, it also highlights all
1648 there is to lose if Congress fails to act for the long term.

1649 If we are going to really address the historical
1650 inequities that limit access and health outcomes, we cannot
1651 be revisiting this funding question year after year. It is
1652 time to permanently raise the bar to ensure adequate funding
1653 that will improve our territorial Medicaid programs.

1654 Dr. Schwartz, I want to talk to you a little bit about
1655 provider flight. Thank you, by the way, for being here
1656 today. It is my understanding that a state Medicaid program
1657 needs to ensure that hospitals and providers are reimbursed
1658 at rates sufficient to maintain participation in the program.

1659 Without adequate pay, providers may stop accepting Medicaid
1660 beneficiaries, or may seek to provide care elsewhere, which
1661 leads to decreased access to health care.

1662 In Puerto Rico there was an exodus of providers, even
1663 prior to the recent catalyst. This island was facing a
1664 fiscal crisis, and doctors were making half of what their
1665 mainland counterparts were making. Thousands of health care
1666 providers left. Then Hurricane Maria and COVID-19 hit.

1667 I want to discuss the consequences of lower
1668 reimbursement rates in the territories, and what that means
1669 to access to care.

1670 Dr. Schwartz, I understand that 50 percent of Puerto
1671 Ricans are on Medicaid. That is a significant number. With
1672 that many families relying on Medicaid, what would be the
1673 effect of continued provider flight on the people, including
1674 the children of Puerto Rico, and their ability to access care
1675 when they need it?

1676 [No response.]

1677 *Ms. Matsui. Dr. Schwartz?

1678 *Ms. Schwartz. Yes. Clearly, fewer providers would
1679 mean fewer opportunities to receive care, delayed care, gaps
1680 in care.

1681 *Ms. Matsui. Okay. In 2018 it was reported that about
1682 15 percent of Puerto Rico's provider population left the
1683 island after Hurricane Maria. With the increases in Medicaid

1684 funding in the last 2 years, has Puerto Rico been able to
1685 implement any policies that would help end the flight of
1686 providers from the island?

1687 *Ms. Schwartz. Sure. Puerto Rico actually has
1688 implemented payment increases for certain providers,
1689 including acute care hospitals, physician services.
1690 Unfortunately, I don't have any information to quantify how
1691 those payment increases have affected provider participation
1692 in the program or access to care.

1693 *Ms. Matsui. Okay, I think that would be helpful to
1694 find out.

1695 If Puerto Rico were to go off the fiscal cliff, do you
1696 think it would be able to continue paying the increased rates
1697 to doctors and hospitals that it has been over the past few
1698 years?

1699 *Ms. Schwartz. Well, as I said previously, provider
1700 payment is one place where any Medicaid program would seek
1701 savings. And for Puerto Rico it would be a decision that
1702 they would have to make. Among the options, provider payment
1703 is often the first step that Medicaid programs face --

1704 [Audio malfunction.]

1705 *Ms. Matsui. So if Puerto Rico is forced to reverse the
1706 temporary pay increases and cut doctor pay, can you speculate
1707 about what effect, if any, that might have on provider flight
1708 and access to care?

1709 *Ms. Schwartz. Yes, well, we certainly have heard from
1710 officials in Puerto Rico that any reductions in provider
1711 payment would result in more providers leaving Puerto Rico,
1712 or leaving the Medicaid program, and worsen any existing
1713 access issues.

1714 *Ms. Matsui. So it is clear to me that, if we really
1715 fail to act, these temporary policies that help keep doctors
1716 on the island will end, and we will have provider flight.

1717 So I do look forward to working with my colleagues on
1718 both sides of the aisle to try to find a permanent fix to the
1719 antiquated way that we fund Medicaid in the territories.

1720 And with that I yield back. Thank you very much.

1721 *Ms. Eshoo. The gentlewoman yields back. It is a
1722 pleasure to recognize the gentleman from Virginia, Mr.
1723 Griffith, for your 5 minutes of questions, sir.

1724 *Mr. Griffith. Thank you very much --

1725 *Ms. Eshoo. Nice to see you.

1726 *Mr. Griffith. -- Madam Chair. Thank you. And I
1727 respect the committee rules, but I do look forward to having
1728 a conversation with my colleague, Jenniffer Gonzales-Colon,
1729 about what she wanted to get in there, that -- when she was
1730 talking with Mrs. McMorris Rodgers.

1731 That being said, Ms. Yocom, I was concerned to read that
1732 the GAO report found Puerto Rico did not take important steps
1733 to enable or seek competition. I am, however, pleased to see

1734 that GAO found managed care organizations to be a shining
1735 example of what is being done right by Puerto Rico's health
1736 insurance administrators. I am hopeful that we can build off
1737 of what works and what has worked there. Could you tell us
1738 more about your findings in relationship to these managed
1739 care organizations in Puerto Rico?

1740 *Ms. Yocom. Sure. I want to caveat that what we looked
1741 at is the procedures used to establish and award the
1742 contracts, and we did find that the largest organization,
1743 ASES, was in charge of establishing these contracts with
1744 different managed care organizations. And they did, indeed,
1745 follow policies that are important to a competitive
1746 procurement, and basically letting people know what factors
1747 that are going to be rated on, and how important those
1748 factors are, relative to each other, as an example of the
1749 type of information that they were requesting.

1750 *Mr. Griffith. And, you know, what changes do you think
1751 could be made to better foster competition in these
1752 contracts, or in other things that you looked at?

1753 *Ms. Yocom. Yes, I think there is a couple of things:
1754 making sure that those processes are more standardized across
1755 the different types of contracts; and then, if there truly is
1756 no way to make a competitive process, making it clear why you
1757 aren't doing something competitive. If it is an emergency,
1758 or if it is only one source on the island that can do the

1759 work, having those kinds of processes more standardized
1760 across the contracting would be important.
1761 *Mr. Griffith. I appreciate that. Is there anything
1762 that you had that you wanted to tell Congress that you hadn't
1763 had an opportunity to tell us?
1764 I know you want to answer questions, but I just want to
1765 give you the opportunity, if there is something else that you
1766 want to get in, to make sure we -- that you want to underline
1767 from your report, et cetera.
1768 *Ms. Yocom. Well, I think, beyond the contracting
1769 process, our work in the past has really shown the impact of
1770 the uncertainty of the fiscal situation and the additional
1771 funds. When they -- when you are waiting to see what will
1772 happen, it is harder to make strong decisions that look
1773 beyond the moment. So I think that is critically important
1774 to understand.
1775 *Mr. Griffith. I appreciate that very much. I have
1776 about 2 minutes left. If anyone would like time, I am happy
1777 to yield. Otherwise, I can yield back. Is there anybody who
1778 wishes to take my time that is left?
1779 [Pause.]
1780 *Mr. Griffith. Hearing none, I yield back, Madam Chair.
1781 *Ms. Eshoo. Seeing -- hearing none, the gentleman
1782 yields back.
1783 Now it is a pleasure to recognize the gentlewoman from

1784 Florida, Ms. Castor, for her 5 minutes of questions.

1785 *Ms. Castor. Well, thank you, Chairwoman Eshoo, for
1786 having this important hearing, and thank you to my colleagues
1787 for appearing before us today and fighting to stand up for
1788 your neighbors back home.

1789 Dr. Schwartz, under the current capped allotment
1790 approach, each territory only receives a set amount of
1791 federal funding for Medicaid. I just want to be crystal
1792 clear. If a territory has Medicaid expenses, and it has
1793 already hit its cap, it cannot receive any more federal
1794 matching dollars, unless Congress intervenes. Isn't that
1795 right?

1796 *Ms. Schwartz. Yes.

1797 *Ms. Castor. And I understand a few years ago the
1798 Northern Mariana Islands did, in fact, hit their federal cap.
1799 What changes did that force to health services under
1800 Medicaid, as a result?

1801 [Pause.]

1802 *Ms. Schwartz. Sorry, yes, it is my understanding that
1803 CNMI suspended providing services for a period of time,
1804 during which they experienced the funding gap. And, you
1805 know, basically, also suggested that certain -- only --
1806 excuse me -- beneficiaries could only be seen by one provider
1807 on the island, limiting people's ability to go to their usual
1808 source of care.

1809 *Ms. Castor. I can't imagine that you have a health
1810 need, and you are limited in this country.
1811 So when a territory uses up its federal Medicaid
1812 allotment, you said in your testimony then they have to turn
1813 to their federal sources to make up the difference. So that,
1814 obviously, means that they -- it has fewer resources for
1815 investments like schools, or modernizing the electric grid,
1816 or other services. Is that correct?
1817 *Ms. Schwartz. Yes.
1818 *Ms. Castor. And on top of all this, you know, we have
1819 seen some amazing medical breakthroughs, particularly in the
1820 field of gene therapy, and biologics, and more on the way.
1821 And these can be lifesaving products, but they are often
1822 incredibly expensive, especially when they first come onto
1823 the market. When a new, expensive, life-saving medication
1824 comes on the market, does the size of the cap increase, if
1825 you have a cap?
1826 *Ms. Schwartz. No.
1827 *Ms. Castor. So thank you for answering those
1828 questions. You are helping to make it very plain that this
1829 Medicaid cliff really puts the citizens that live in the
1830 territories at a disadvantage, compared to their fellow
1831 citizens. I think the -- this underlying system is deeply
1832 inequitable, and it has been for a long time.
1833 Even if we raise the caps, the territories will always

1834 be one economic downturn or one natural disaster or one
1835 medical breakthrough away from being able to fully care for
1836 its residents. So I think it is time that we finally end the
1837 unfair treatment for the territories, and end Medicaid block
1838 grants, ensure that Medicaid is there as the safety net that
1839 it is intended to be for all American citizens.

1840 Thanks, I yield back.

1841 *Ms. Eshoo. The gentlewoman yields back. It is a
1842 pleasure to recognize another wonderful Floridian, Mr.
1843 Bilirakis.

1844 You have 5 minutes for your questions.

1845 *Mr. Bilirakis. Thank you, Madam Chair. I appreciate
1846 it, and I want to thank all of you for participating in this
1847 hearing. We appreciate it so much.

1848 Ms. Yocom, last Congress I joined my fellow Floridian
1849 E&C colleague, Representative Soto, in introducing the
1850 territories' Health Care Improvement Act, which added robust
1851 program integrity measures in response to the malfeasance.
1852 From what GAO has observed to date, has Puerto Rico taken
1853 sufficient action to prevent the fraud and theft of
1854 government funds, which was at the center of the law
1855 enforcement action taken on July 10, 2019?

1856 And if not, what more should occur?

1857 Again, for Ms. Yocom.

1858 *Ms. Yocom. We haven't looked in great detail at what

1859 Puerto Rico has done since our -- that past work you spoke
1860 of. We do know, however, that the contracting risks that we
1861 have already talked about are there.
1862 And then additionally, while the Medicaid fraud control
1863 unit is set up, it is not coordinating well with the other
1864 program integrity efforts on the island.
1865 *Mr. Bilirakis. Okay, you know, you need to please
1866 follow up with this, because I think that is a pretty
1867 important question that everybody would like to have an
1868 answer to.
1869 Currently, the -- are there any territories that -- with
1870 post-eligibility determination process for that process to
1871 validate beneficiary program eligibility (sic)?
1872 *Ms. Yocom. Yes, we haven't done work to speak to that.
1873 I don't know if Dr. Schwartz has.
1874 *Mr. Bilirakis. Dr. Schwartz, would you like to comment
1875 on that?
1876 *Ms. Schwartz. Well, I know that Puerto Rico has been
1877 reporting for the payment error rate measurement program and
1878 the Medicaid eligibility quality control program, even though
1879 it is -- they are technically not required to do so. But I
1880 am not aware of what the results from that activity are, or
1881 how their error rates compare to other jurisdictions.
1882 *Mr. Bilirakis. We need these answers, folks.
1883 One question again for Ms. Yocom. Are there any

1884 concerns that ineligible providers may also remain enrolled
1885 in the Medicaid program throughout the territories, or in any
1886 particular territories?
1887 *Ms. Yocom. I would say throughout the territories and
1888 throughout the states, that is an area where we need to be
1889 doing stronger work of screening and enrolling providers, and
1890 making sure that they are not on the OIG list for providers
1891 who should be excluded.
1892 *Mr. Bilirakis. So you said throughout the states, as
1893 well.
1894 *Ms. Yocom. Yes, our work has shown that there is still
1895 a lot of work to be done there.
1896 *Mr. Bilirakis. That is something we need to be focused
1897 on, then.
1898 Dr. Schwartz, the Northern Mariana Islands, American
1899 Samoa, and Guam are required to demonstrate the following by
1900 October of this year: progress in implementing methods for
1901 the collection and reporting of reliable data to the
1902 Transformed Medicaid Statistical Information System, in
1903 addition to progress in establishing a state Medicaid fraud
1904 control unit. Can you provide us with an update regarding
1905 the progress made to date on both fronts, please?
1906 *Ms. Schwartz. So the information I have is that Puerto
1907 Rico and the U.S. Virgin Islands are both reporting to TMSIS,
1908 and Guam is working towards production on that. American

1909 Samoa and CNMI are exempt, although CNMI is beginning to work
1910 on that. Both Puerto Rico and U.S. Virgin Islands have also
1911 established fraud control units. The other three territories
1912 have not. American Samoa and CNMI are exempt under their J
1913 waiver.

1914 *Mr. Bilirakis. Okay, thank you very much.

1915 And folks, these are American citizens, and we want to
1916 help them, obviously. But we need some accountability here,
1917 and that is why I believe we are having this hearing.

1918 So I really appreciate it, Madam Chair. And if anyone
1919 wants my 22 seconds, they can have it. Otherwise, I yield
1920 back.

1921 *Ms. Eshoo. Any takers?

1922 [Pause.]

1923 *Ms. Eshoo. No hands. Okay, we are going to --

1924 *Ms. Plaskett. Madam Chair?

1925 *Ms. Eshoo. Yes?

1926 *Ms. Plaskett. This is Congresswoman Plaskett. Thank
1927 you so much, Mr. Bilirakis.

1928 I just wanted to submit for the record -- I know that
1929 leadership on the committee has received a letter from
1930 Governor Bryan of the Virgin Islands. I just ask unanimous
1931 consent that his letter -- I am sure the letters of these
1932 other governors have written to -- from the territories that
1933 have written --

1934 *Ms. Eshoo. It is already in the record.

1935 *Ms. Plaskett. Thank you very much.

1936 *Ms. Eshoo. It is already in the record, and we thank
1937 you.

1938 *Ms. Plaskett. I appreciate that.

1939 *Ms. Eshoo. The gentleman yields back. It is a
1940 pleasure to recognize the gentleman from California, Mr.
1941 Cardenas, for his 5 minutes of questions.

1942 *Mr. Cardenas. Thank you very much, Chairwoman Eshoo,
1943 and I appreciate Ranking Member Guthrie for having this
1944 incredibly important hearing.

1945 It is a unique and horrible feeling to be in this great
1946 country, but feel like a second-class citizen. And I believe
1947 today's hearing is exposing how, when it comes to something
1948 as precious and as important as human beings' health, it is
1949 being treated in the territories as though people are less
1950 than human or second-class citizens. And I challenge anybody
1951 to try to argue otherwise.

1952 We have heard a lot about the cap, and how harmful it
1953 is, and it has been to the territories over the years. I
1954 want to focus on the other aspect of Medicaid in the
1955 territories that is a major detriment to the program, and
1956 that is the inequity of how the federal Medicaid assistance
1957 percentage, otherwise known as FMAP, is calculated.

1958 Dr. Schwartz, just the level set -- can you briefly

1959 explain what the FMAP is, and how it is set for typical state
1960 Medicaid programs?

1961 [Pause.]

1962 *Mr. Cardenas. Dr. Schwartz?

1963 *Ms. Schwartz. Sure.

1964 *Mr. Cardenas. Okay.

1965 *Ms. Schwartz. So the FMAP is based on the state's per
1966 capita income, relative to the national average, with higher
1967 FMAPs for states with lower per capita incomes, and vice
1968 versa.

1969 There is a minimum of 50 percent, and there is a maximum
1970 of 83 percent, and those FMAPs are adjusted modestly each
1971 year, based on changes in per capita income, relative to the
1972 national average. And then, for the territories, it is set
1973 at 55 percent, unless a specific increase has been given, as
1974 under the Families First bill, or in -- under the
1975 consolidated appropriations bill.

1976 *Mr. Cardenas. So therefore, when it comes to states
1977 and the FMAP, that means that you get more assistance from
1978 the Federal Government if you have a lower economic income.

1979 *Ms. Schwartz. That is right.

1980 *Mr. Cardenas. Okay, thank you.

1981 The FMAP is different for the territories, though. As
1982 you stated in your testimony, the territorial FMAP is set by
1983 law at 55 percent, which is much lower than what it would be

1984 if they were calculated like a state.

1985 *Ms. Schwartz. That is right.

1986 *Mr. Cardenas. Okay. Dr. Schwartz, in your testimony
1987 you stated that some of the territories have struggled in the
1988 past to generate the local funds necessary to draw down
1989 federal funds. Which territories are you aware of that have
1990 struggled with this?

1991 *Ms. Schwartz. So, to my knowledge, all the territories
1992 have struggled with this, but I believe it has been a
1993 particular problem in several of the Pacific territories.

1994 *Mr. Cardenas. Okay. So the territories, it seems that
1995 all of them end up in a position where they have a greater
1996 need. And even though there is inadequate funding, even that
1997 inadequate funding isn't even drawn down, not because they
1998 don't have the need, but because they don't have the ability
1999 to match and draw down those funds.

2000 *Ms. Schwartz. Yes.

2001 *Mr. Cardenas. Okay, that seems completely backwards to
2002 me. And with all due respect, I think Congress has every
2003 right and responsibility to recognize this glaring problem,
2004 and correct it as soon as possible.

2005 Dr. Schwartz, you also said in your testimony that you
2006 expect all of the territories to struggle with generating the
2007 local Medicaid funds if the FMAP were to revert back to 55
2008 percent. So even if we do increase the federal funding, the

2009 territories won't be able to take full advantage of it unless
2010 we also increase the FMAP, correct?
2011 *Ms. Schwartz. Yes.
2012 *Mr. Cardenas. Okay. So basically, what we have been
2013 able to prove recently, with our actions of increasing the
2014 FMAP for the territories, is that that is a much better
2015 right-sized give-and-take with the territories and the
2016 Federal Government funding than the 55 percent. Has that
2017 been demonstrated?
2018 *Ms. Schwartz. Well, I think if you look at what per
2019 capita incomes are in the territories, if you calculated them
2020 based on the state formula, you would come up with a much
2021 higher FMAP.
2022 *Mr. Cardenas. Yes. Colleagues, I hope and pray that
2023 that this hearing does bring us to a point where we actually
2024 properly fund.
2025 And one of the things I would like to point out, again,
2026 being the territories are being treated like second-class
2027 citizens, in my opinion, in this country, if you are of a
2028 certain background or what have you, you are not considered
2029 suspect, even though you may actually do things that are
2030 beyond suspect, and even criminal. But when it comes to the
2031 territories, I think that we are holding the territories to a
2032 standard that is unreal, and is unfair, just because they are
2033 territories.

2034 There are states and actors within states of the Union
2035 that have actually done wrong, and they have been able to
2036 even run for office later, get elected to things like, you
2037 know, U.S. Senator, what have you. But yet the territories
2038 are being held suspect when we truly don't have proof that we
2039 should be holding them suspect. Instead, we should be
2040 funding them appropriately, and also holding them
2041 accountable, just like we would any state.

2042 I am sorry, Madam Chair, I am out of time, and thank you
2043 very much. I yield back.

2044 [Pause.]

2045 *Mr. Cardenas. Madam Chair?

2046 *Ms. Eshoo. I thank you for the clarity of your
2047 comments. I think that it is a -- you painted a tough
2048 picture, because that is what it is. But I don't know any
2049 one of us, if we were in the position of any one of the
2050 territories in our state, we would be shouting out from the
2051 top of the Capitol on this. And I think it has just gone on
2052 for far too long.

2053 No one really understands why the Congress did what it
2054 did a half a century ago. I think this darn thing has gone
2055 on long enough. If we haven't learned how essential to life
2056 is -- and our livelihoods -- health care -- we struggle with
2057 it in the 50 states. Why wouldn't it be the same way with
2058 people in the territories, who are our fellow citizens, and

2059 just squeezing, squeezing, squeezing -- it just is beyond me.
2060 Anyway, I want to call on and recognize the gentleman
2061 from Missouri, Mr. Long, our friend.
2062 Mr. Long, you have 5 minutes.
2063 *Mr. Long. Thank you, Madam Chair, and thank you all
2064 for being here today.
2065 Dr. Schwartz, I wanted to ask you about the history of
2066 the J waivers. Two territories in -- the Northern Mariana
2067 Islands and American Samoa operate their Medicaid and CHIP
2068 programs under Section 1902, the J waivers. Why were these
2069 two territories granted one, and what have they allowed these
2070 territories to do?
2071 *Ms. Schwartz. I do not have information at my
2072 fingertips about the history of why the J waivers were
2073 granted, but we can certainly get that information to you.
2074 I know the J waiver provides an opportunity to waive
2075 many areas of the statute, and so I -- we can provide that
2076 specific information to you for the record. And I apologize
2077 I don't have it at my finger tips.
2078 *Mr. Long. Okay, yes, I really would appreciate it,
2079 because I would like to get an answer to that. And I
2080 appreciate you following up with my staff on that, and
2081 getting the information to us.
2082 You may not be able to answer this next question,
2083 either, but do they want these waivers to continue? Are you

2084 apprised of that? Do you know if they want them to continue?
2085 *Ms. Schwartz. I have not heard, either way. But
2086 again, I can check on that for you.
2087 *Mr. Long. Okay -- go ahead, I am sorry.
2088 *Ms. Schwartz. I just wanted to also, while I had a
2089 moment, to correct something I said earlier about the TMSIS
2090 data. I mentioned that Puerto Rico and the Virgin Islands
2091 were both providing TMSIS data, and several others were
2092 exempt. But I want to make clear that, actually, the other
2093 three territories must demonstrate progress on TMSIS by
2094 October of this year. And so I just want to make sure that
2095 that is correctly reflected.
2096 *Mr. Long. Okay, thank you.
2097 And Ms. Yocom, obviously, the focus of your report was
2098 on Puerto Rico, but I wanted to make sure we didn't neglect
2099 the other territories and the good work they have done on
2100 their program integrity measures. Are there any things we
2101 should consider implementing or reviewing for the other
2102 territories?
2103 *Ms. Yocom. I am afraid the work that we have done on
2104 all the territories together is likely too old to be helpful
2105 here.
2106 In general, what you want your Medicaid program to have
2107 is good data, so you know where the money is going; good
2108 screening, so you know the providers are eligible and in good

2109 standing; and strong eligibility systems, so you are covering
2110 the people who need the program the most.
2111 *Mr. Long. Okay, okay, thanks, I appreciate that.
2112 And Madam Chairman, I yield back.
2113 *Ms. Eshoo. Thank you, Mr. Long, and the gentleman
2114 yields back.
2115 It is a pleasure to recognize the gentlewoman from
2116 Illinois, Ms. Kelly, for your 5 minutes questions.
2117 [Pause.]
2118 *Ms. Eshoo. Are you on board?
2119 I saw her earlier. All right, then we will go to the
2120 gentlewoman from California, Ms. Barragan, for 5 minutes of
2121 questions.
2122 *Ms. Barragan. Thank you, Madam Chairwoman. I just
2123 wanted to state that I think it is incredibly unfair the
2124 territories receive Medicaid funding in the form of a block
2125 grant. States receive open-ended federal funds, for the
2126 funds territories receive are fixed. The block grant funding
2127 does not come anywhere close to covering the cost of health
2128 care for the territories' Medicaid enrollees.
2129 And with that I want to yield to a champion on these
2130 issues, my former CHC colleague, Darren Soto.
2131 *Mr. Soto. Thank you so much, Representative Barragan,
2132 and thank you, Chair Eshoo, for hosting this really critical
2133 issue. Representing more island-born Puerto Ricans than any

2134 other district, of course, than the island of Puerto Rico and
2135 Jenniffer Gonzalez-Colon herself, this is a key issue.
2136 You know, last term we had a great bill that came out of
2137 this committee, where majority and minority staff worked
2138 together with the leadership of Chair Eshoo and others. And
2139 I co-introduced, with Representative Gus Bilirakis, our
2140 Territories Medicaid Parity Bill, and it represented a really
2141 great balance. It set a 5-year set of benchmarks. It raised
2142 the funding for each of the territories. It, literally,
2143 would have set us on a great path forward. And we know that,
2144 sadly, the Senate went back on that deal, despite bipartisan,
2145 unanimous support out of our committee, at the urging of
2146 then-President Trump, even though I think there was great
2147 support among Republicans and Democrats in the Senate, as
2148 well.
2149 So, you know, I strongly encourage both our chairs and
2150 our ranking members and our majority and minority staff to
2151 work together to see if we can get something together that we
2152 could both get behind that makes sure we, once and for all,
2153 set ourselves at least on a 5-year path to get to 100 percent
2154 Medicaid parity.
2155 We heard from champions like Representative Sablan and
2156 Radewagen, Plaskett, Gonzalez-Colon, and San Nicolas about
2157 what -- how it set our territories behind. When you think of
2158 the billions of dollars that they had to dig deep in from

2159 their own local territorial budgets, we saw patients left
2160 behind in Hurricane Maria or in the many cyclones we saw out
2161 in the Pacific territories. We saw that patients can't get
2162 transportation. We saw hospitals that ended up not having
2163 enough funding to be maintained, so when they were hit with
2164 Hurricane Irma and Hurricane Maria, they looked like they
2165 were going to be inoperable for many years.
2166 Ms. Schwartz and Ms. Yocom, my question to you all is,
2167 based upon that bill from last term, is there a path we could
2168 get at, a 5-year path, to get all the services up to what we
2169 need to, equal to states, where we can have that funding be
2170 equal?
2171 Is that something you think is achievable in these next
2172 5 years, if we work this out?
2173 *Ms. Schwartz. I think the general idea of having a
2174 longer-term funding arrangement and a phased implementation
2175 of benefits, repayment rates, or eligibility levels makes a
2176 lot of sense. I couldn't comment on whether 5 years would be
2177 sufficient to do the whole thing.
2178 I also imagine that, across the different territories,
2179 you might want to stage the implementation of those different
2180 steps differently, depending upon their own needs. And that
2181 is the kind of thing that territories and perhaps CMS could
2182 comment on and come up with a plan. So I think the general
2183 idea of it seems sound.

2184 *Mr. Soto. Thanks.

2185 And Ms. Yocom?

2186 *Ms. Yocom. We would be glad to work with you to help.
2187 We think it is definitely a good plan, and we can give it a
2188 try. We are glad to help with data and doing the -- some of
2189 the analysis.

2190 *Mr. Soto. Thank you. Just as we close, you know, the
2191 pandemic has exposed how key coverage and services for
2192 Medicaid and insurance coverage, generally, is to make sure
2193 that Americans in our territories are treated with the same
2194 dignity, respect, and access to health care as those of us
2195 living on the mainland in states.

2196 So I thank you all for this opportunity, and I yield
2197 back.

2198 *Ms. Barragan. Madam Chairwoman, I yield back. Thank
2199 you.

2200 *Ms. Eshoo. The gentlewoman yields back.

2201 It is a pleasure to recognize Dr. Bucshon for your 5
2202 minutes of questions. Good to see you.

2203 *Mr. Bucshon. Good to see you. Thank you, Madam
2204 Chairwoman.

2205 Ms. Yocom, aside from contracts not being negotiated in
2206 a competitive way in Puerto Rico, one of the more alarming
2207 aspects of your report is that CMS is not conducting
2208 oversight of Medicaid contracts at any level. I want to ask,

2209 what was -- what has CMS said about changing this behavior
2210 for both the territories and the states, moving forward?
2211 And are there requirements Congress should put in place,
2212 or policies we should consider for both of the -- both the
2213 territories and states?
2214 *Ms. Yocom. Yes, CMS has said a couple of things to us
2215 on this work.
2216 The first was that they did feel like states and
2217 territories were in the best position to understand their own
2218 laws and regulations when it comes to contracting. They do,
2219 however, have authority to step in when there are issues or
2220 concerns that would lead them to want to know more
2221 information about contracting processes. I think that is an
2222 important thing to look at.
2223 When we asked CMS what circumstances might lead them to
2224 do that, they did not have a response for us. So within
2225 current law and regulation, that seems like a really
2226 important place to start, is under what circumstances do you
2227 want the Federal Government in and assisting?
2228 The last thing CMS said is that it would provide
2229 technical assistance, and they can, if need be, withhold
2230 federal monies if they deem that necessary.
2231 *Mr. Bucshon. Thank you very much for that response. I
2232 appreciate it. It sounds like we have got a little bit of
2233 work to do in that space.

2234 *Ms. Yocom. I think so.

2235 *Mr. Bucshon. Ms. Schwartz, the two bills before the
2236 subcommittee today would remove the caps from all the
2237 territories. If either of these were signed into law, would
2238 the territories be in compliance with the Medicaid program?

2239 *Ms. Schwartz. Well, I have not read these bills in
2240 detail.

2241 Removing the caps, in and of itself, does not mean that
2242 all territories will be providing the full suite of services,
2243 or conducting a full set of oversight or data-reporting
2244 measures that are required of the states. And, you know, you
2245 would need to be explicit on all of those items.

2246 Also, I just further want to comment that, as --
2247 removing the caps without addressing the FMAP is problematic
2248 for the reasons shared earlier.

2249 *Mr. Bucshon. Yes, and I was going to follow up with
2250 that, and it seems more -- maybe a more important discussion
2251 is to provide long-term certainty, and fix some of the other
2252 underlying problems. What does the long-term certainly look
2253 like, and what can Congress do to help provide that certainty
2254 for the territories?

2255 *Ms. Schwartz. So a couple of issues have been raised
2256 about -- or concerns about the adequacy of the program from
2257 the territories, one being provider payment and then the
2258 second being the breadth of the benefits.

2259 And for a program administrator, committing to an
2260 increase in provider payment without certainty about the
2261 availability of the funds to back up those provider payment
2262 increases, I think, would be difficult.
2263 And similarly, for extending a benefit, I think all
2264 Medicaid programs are in this situation, that they do not
2265 like to provide benefits and then have to be able to say the
2266 next year, no, sorry, there is not enough money, and we are
2267 not going to provide that. It is very disruptive to
2268 providers. It is, obviously, very disruptive to
2269 beneficiaries, who have expectations.
2270 So those are some examples of how the uncertainty
2271 affects the program on a very day-to-day basis.
2272 *Mr. Bucshon. Okay, well, thank you.
2273 I also want to know -- it seems, you know, like we are
2274 going to work off the extension we passed 2 years ago. But
2275 we need to understand, for a long-term fix, we really need to
2276 find a way to pay for the services, and that need must be
2277 part of our work, moving forward.
2278 I would -- as a health care provider, I want everyone
2279 who is a U.S. citizen -- territories, the -- and all the
2280 other states -- to have the same access to quality medical
2281 care as everyone does in my state, Indiana, and the rest of
2282 the country. So this is really a critical issue for our
2283 territories that we really need to find a solid, long-term

2284 solution to ensure that our -- the U.S. citizens in the
2285 territories really have the same quality of program, and
2286 program integrity, as well as the same amount of resources,
2287 financially, for quality health care. And I want to make --
2288 I want to be part of that solution.
2289 Madam Chairwoman, I yield back.
2290 *Ms. Eshoo. Those are very generous comments, Dr.
2291 Bucshon.
2292 The chair is delighted to recognize the gentlewoman from
2293 Washington State, Dr. Schrier, for 5 minutes of questions.
2294 Not there? Then we will call on the gentlewoman from
2295 Massachusetts, Ms. Trahan, for your 5 minutes of questions.
2296 Not there? Well, we -- I think a lot of members have
2297 left their seats to go over to the Capitol to vote. Let's
2298 see who is next.
2299 *Voice. It should be -- look at the Republicans, Mr.
2300 Dunn.
2301 *Ms. Eshoo. Mr. Dunn -- from where?
2302 Mr. Dunn, are you there?
2303 [Pause.]
2304 *Ms. Eshoo. Then Dr. Joyce, you are recognized. Thank
2305 God you are there.
2306 *Mr. Joyce. It is great to be here. Thank you, Chair
2307 Eshoo, thank you for holding this, and Ranking Member
2308 Guthrie, for allowing us to convene. I would also like to

2309 thank my colleagues on their first panel for their testimony
2310 here today.
2311 First, Ms. Schwartz, too often we make policy with each
2312 of the territories getting lumped together. Can you give us
2313 some examples of how they differ from each other?
2314 *Ms. Schwartz. Sure. Here is one quick example. In
2315 2019 the number of enrollees in Puerto Rico was 1.2 million.
2316 In the Commonwealth of the Northern Mariana Islands it was a
2317 little over 16,000. In Puerto Rico, they have a managed care
2318 infrastructure, and in the other territories it is primarily
2319 fee-for-service. So those are some good examples of the
2320 scale and the scope differences across the various
2321 territories.
2322 *Mr. Joyce. In face -- continuing along that line, Ms.
2323 Schwartz, in face of these differences, not only geographic,
2324 but the number of insured lives that can be covered
2325 effectively, how should we, as Members of Congress, be better
2326 addressing this?
2327 And that is for you, Ms. Schwartz.
2328 *Ms. Schwartz. Sure. I think the one suggestion that I
2329 would make and plan for enhanced requirements to go with an
2330 enhanced funding is consultation with the territories about
2331 their capacity to provide those requirements, and staging
2332 those in a way that is consistent, both with what the
2333 committee wants to achieve, and what is realistic in the

2334 short and the long term.

2335 *Mr. Joyce. Ms. Yocom, I understand that we do have a
2336 need for stability, and the goal of increasing the cap and
2337 FMAP for the territories. Specifically, I want to discuss
2338 Puerto Rico.

2339 Last Congress this committee agreed on bipartisan
2340 proposals to provide 4 years of relief tied to important
2341 program integrity measures. However, I am concerned with
2342 what occurred with the former director of SS and the GAO
2343 findings related to procurement processes. What are concrete
2344 steps that SS has taken to address the concern from the GAO's
2345 report on program integrity?

2346 *Ms. Yocom. Well, as I noted earlier, Puerto Rico has
2347 produced a contracting reform plan, and it has two key points
2348 where the details that they flesh out their plan with will be
2349 very important to know about. The first deadline is in
2350 April, where they -- where their plan says they will talk
2351 more about how they will foster competition, and what kind of
2352 steps they will take to improve contracting procedures.

2353 And then the second one is at the end of this year,
2354 which has more detail on how they are going to go about it.

2355 I think keeping track of that, thinking about
2356 standardization across contracting processes as Puerto Rico
2357 considers how to implement its plan is going to be two really
2358 important things to do.

2359 *Mr. Joyce. What steps has the governor committed to
2360 take as part of this revised fiscal plan?
2361 *Ms. Yocom. You know, I don't know that I can speak to
2362 that. I would be glad to find that out for you.
2363 *Mr. Joyce. Thank you. I think that would be
2364 important, for us to have that information, as well.
2365 Thank you for the opportunity to have this dialogue and,
2366 Chair Eshoo, I yield the remaining time.
2367 *Ms. Eshoo. The gentleman yields back. I thank him for
2368 his questions. I don't see any other members at this time
2369 that I can recognize from either side of the aisle.
2370 So I want to once again thank this panel of witnesses
2371 for your testimony today and, of course, our colleagues that
2372 headed up the hearing from the territories. We appreciate
2373 each one of you and your sharing your -- you know, answering
2374 the members' questions. Hearings are very important, and we
2375 always learn from them.
2376 I am going to submit the --
2377 *Voice. There is over 30 documents.
2378 *Ms. Eshoo. -- over 30 documents. They are statements
2379 for the record. And I want to ask my colleague, the ranking
2380 member of the subcommittee, if he would grant a unanimous
2381 consent request that those be -- those statements be placed
2382 in the record, so we don't have to read 30 of them.
2383 *Mr. Guthrie. Yes, ma'am. No objection.

2384 *Ms. Eshoo. -- with you.

2385 *Mr. Guthrie. No objection, yes.

2386 *Ms. Eshoo. Thank you. Thank you.

2387 [The information follows:]

2388

2389 **********COMMITTEE INSERT**********

2390

2391 *Ms. Eshoo. Pursuant to committee rules, members have
2392 10 business days to submit additional questions for the
2393 record, and I am sure that the witnesses will respond
2394 promptly to any questions that you receive. It is a very
2395 important part of our hearing process.
2396 And at this time the subcommittee is adjourned. Thank
2397 you, everyone.
2398 [Whereupon, at 3:15 p.m., the subcommittee was
2399 adjourned.]