

Statement of Hon. Jenniffer A. Gonzalez Colon  
Resident Commissioner of Puerto Rico

Puerto Rico has faced the challenge of inequitable Medicaid funding since the inception of the federal program. The funding provided under Section 1108(g) of the SOCIAL SECURITY ACT has historically been insufficient to meet the needs of the territories' Medicaid programs and bears no relation with the healthcare expenditures needed for its medically indigent population to receive proper and effective diagnosis, treatment, care and medication services.<sup>1</sup> This inadequate funding has resulted in the territories financing a larger proportional share of this joint state-federal program than the States and the District of Columbia have; as well as a more limited program for the Americans in the territories than that available to those in the States and the District of Columbia.

For more than 10 years, Puerto Rico has sought and received supplementary funds beyond the mandated Section 1108 cap to pay for the healthcare services provided to its Medicaid population. These supplementary sources have provided the funding needed to reach the bare minimum revenues needed to fund the complex system that serves around 1.5 million beneficiaries. These funds have been characterized by their temporary nature, the need for the renewal of the funding on a crisis-to-crisis basis and, for the inequity in the reimbursement formula of the territory, which is consistently lower in amount and with a lower Federal Medical Assistance Percentage (FMAP) when compared to similar States.

Americans in Puerto Rico should be able to enjoy a Medicaid program with the same standards and benefits enjoyed by Americans elsewhere. The only way to provide stable Medicaid program in the territories with the benefits that Congress intended for its beneficiaries is to eliminate the artificial limits to funding that affect millions of Americans solely because of where in the United States they have chosen to call their home. Americans in Puerto Rico deserve a Medicaid program with equal funding to that provided to Americans elsewhere. Congress must correct this disparity, which has forced Puerto Ricans—both beneficiaries and providers—to leave their homes and has crippled our Island's healthcare system. Congress has a moral obligation to eradicate these disparities and eliminate discrimination between similarly situated Americans whose basic difference is the zip code where they reside.

During 2019, the Puerto Rico's government appeared before Congress seeking additional funds to supplement the insufficient Medicaid cap which, at the time, accounted for approximately 10% of the program's total cost—a program in which covers only 10 of Medicaid's 17 mandatory benefits.<sup>2</sup> In addition to the financing it needed to fund its Medicaid program in its then-current

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<sup>1</sup> MACPAC. 2019. MEDICAID IN PUERTO RICO: FINANCING AND SPENDING DATA ANALYSIS AND PROJECTIONS. (March 2019a). Available at <https://www.macpac.gov/wp-content/uploads/2019/03/Medicaid-in-Puerto-Rico-Financing-and-Spending-Data-Analysis-and-Projections.pdf>.

<sup>2</sup> Although the federal rules for Medicaid benefits generally apply to Puerto Rico, it currently provides only 10 of Medicaid's 17 mandatory benefits due to insufficient funding. For example, it does not cover nursing facility services, non-emergency medical transportation, or emergency medical services for non-citizens. U.S. Government Accountability Office (GAO). 2016. MEDICAID AND CHIP: INCREASED

form, Puerto Rico also requested additional funding for certain “sustainability measures” which were indispensable for the continued operation of the program and for the implementation of several program integrity measures which Puerto Rico has been embracing and successfully implementing.

The total amount of these initiatives took the 2019 baseline Medicaid costs from approximately \$2.8 billion yearly to approximately \$3.5 billion for federal fiscal years 2020 and 2021. This was also accompanied by an increase of the FMAP from 55% to 76%, greatly increasing federal participation in reimbursement.<sup>3</sup> The breakdown of the approximate total reimbursement achieved after approval for the initiatives and increased FMAP is:

1. Increasing the Puerto Rico Poverty Level (PRPL) to 85% of the Federal Poverty Level (FPL). .....\$350 million

The PRPL is \$10,200 annually for a family of four, or approximately 40 % of the FPL, which was \$25,750 in 2019. The additional funds provided by Congress allowed Puerto Rico to cover over 200,000 additional beneficiaries.

2. Increasing Medicare Part B provider reimbursement to 70% of the current Medicare Fee Schedule .....\$140 million

3. Increasing physicians with capitated arrangements reimbursement.....\$50 million

Medicaid physician fees are low in Puerto Rico compared to the States for certain services, including primary care and maternity services. For example, from July 2016 to July 2017, Medicaid physician fees were 19% of Medicare for primary care services and 50% of Medicare for maternity services, compared to the

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FUNDING IN U.S. TERRITORIES MERITS IMPROVED PROGRAM INTEGRITY EFFORTS. GAO-16-324. Available at <http://www.gao.gov/assets/680/676438.pdf>. It does, however, provide certain optional benefits, including dental services and prescription drugs. CMS. 2012. AMENDMENT TO PUERTO RICO MEDICAID STATE PLAN. (19 Mar 2012). Available at <http://www.medicaid.gov/State-resourcecenter/Medicaid-State-Plan-Amendments/Downloads/PR/PR-11-003-Att.pdf>.

<sup>3</sup> In 2011, Puerto Rico’s FMAP was statutorily set at 50 percent; the ACA provided an FMAP increase for Puerto Rico from 50 percent to 55 percent effective July 1, 2011. The found that, when the capped federal contribution was compared with Puerto Rico’s contribution to the health care needs of Medicaid eligible beneficiaries, the effective FMAP rate was estimated to be approximately 18 percent. White House. 2011. REPORT BY THE PRESIDENT’S TASK FORCE ON PUERTO RICO’S STATUS. (March 2011). Available at [https://obamawhitehouse.archives.gov/sites/default/files/uploads/Puerto\\_Rico\\_Task\\_Force\\_Report.pdf](https://obamawhitehouse.archives.gov/sites/default/files/uploads/Puerto_Rico_Task_Force_Report.pdf).

national average of 66% of Medicare for primary care and 81% of Medicare for obstetric care.<sup>4</sup>

According to Bureau of Labor Statistics, the average annual earnings of family physicians and general practitioners in Puerto Rico are \$86,970, compared to \$211,780 nationally.<sup>5</sup> This vast disparity in earnings has contributed to an ongoing exodus of younger doctors, which has left the island with an older, shrinking physician workforce. Only 4% of doctors in Puerto Rico are 35 years old or younger, compared to 24% in the States, according to data presented to MACPAC, which leaves the island at risk of further loss of physicians as older doctors retire.<sup>6</sup>

The additional funds provided by Congress allowed Puerto Rico to increase reimbursements to physicians by \$190 million.

This increase in reimbursements has been instrumental in helping physicians stay afloat during this COVID-19 pandemic. Many of the mechanisms included in the CARES Act to provide immediate cashflow to healthcare providers have been based in original Medicare which, because of the low percentage of original Medicare beneficiaries in Puerto Rico, were mostly inapplicable or ineffective. For example, over 50% of healthcare providers in Puerto Rico received payments from the Provider Relief Fund in an amount less than \$1,000 (compared to 17% nationally) and 84% of healthcare providers received payments in an amount less than \$5,000 (compared to 39% nationally). Moreover, providers in Puerto Rico received fewer dollars per capita from the Provider Relief Fund than any State or territory, with a per-capita distribution for Puerto Rico of \$23.98 compared to the national per capita of \$174.14.

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<sup>4</sup> MACPAC. 2019. MEDICAID IN PUERTO RICO: FINANCING AND SPENDING DATA ANALYSIS AND PROJECTIONS. (March 2019). Available at <https://www.macpac.gov/wp-content/uploads/2019/03/Medicaid-in-Puerto-Rico-Financing-and-Spending-Data-Analysis-and-Projections.pdf>.

<sup>5</sup> Bureau of Labor Statistics, Occupational Employment Statistics. (May 2018). Available at [https://www.bls.gov/oes/current/oes\\_nat.htm#29-0000](https://www.bls.gov/oes/current/oes_nat.htm#29-0000).

<sup>6</sup> MACPAC, December 2018 Meeting Transcript, p. 268. Available at <https://www.macpac.gov/wp-content/uploads/2017/07/December-2018-Meeting-Transcript.pdf>.

4. Increasing hospital reimbursement to compensate for Medicaid beneficiaries' attention loses.....\$106 million

Hospitals in Puerto Rico are ineligible for Medicaid Disparate Hospital Share payments and receive a minimal amount of Medicare Disparate Share payments because Americans living in Puerto Rico are ineligible for Supplemental Security Income, which is one of the factors in the formula for this program. The funds provided by Congress allowed Puerto Rico to increase reimbursements to hospitals to over 90% of the applicable Medicare Fee Schedule, an amount totaling \$106 million.

5. Covering oral hepatitis C treatment for chronic liver disease patients .....\$38 million

After further analysis of the cost of the measures, it was decided that the final sustainability measure proposed to Congress— paying the Medicare Part B premium for dual eligible beneficiaries<sup>7</sup>— could not be pursued because its cost would have defunded the other initiatives severely. Additional payments, like the second increase to dentists, were also included in the supplementary revenue sought. As of this date, Puerto Rico is on track to spend the total incremental amount for the sustainability measures of approximately \$700 million by the end of this fiscal year.

The increase in the Section 1108 cap provided under the FURTHER APPROPRIATIONS ACT OF 2020 will expire on September 30, 2021. Therefore, effective on October 1, 2021, the amount of federal funds provided to the Puerto Rico Medicaid program will be capped at approximately \$380,000,000, about 10% of the program's current total cost.

As the end of the Puerto Rico fiscal quickly approaches, Congress needs to act swiftly to prevent the Puerto Rico Medicaid program from becoming underfunded. Any delay will affect the contractual negotiations with the managed care organizations that provide healthcare services to our Medicaid beneficiaries because the lack of additional federal Medicaid funding will cause the FEDERAL OVERSIGHT AND MANAGEMENT BOARD to substantially cut budget for this program. Accordingly, I ask that, we work to provide the Puerto Rico Medicaid program with sufficient funding, at an FMAP of 83%, to allow it to have a smooth transition into the next fiscal year without cutting benefits, lowering provider payments, or withdrawing coverage for hundreds of thousands of current beneficiaries in the middle of this pandemic.

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<sup>7</sup> Americans living in Puerto Rico are ineligible for the Medicaid Savings Programs, which help to subsize Medicare Part B premiums and copayments. This means that the GHP has to absorb the cost of providing these services to its dually eligible beneficiaries, whether directly or through Medicare Advantage Plans.

The Government of Puerto Rico has estimated that it needs \$4.8 billion for fiscal year 2022 and \$5.1 billion for fiscal year 2023 to continue to run its Medicaid program.<sup>8</sup> This increase would allow for a greater degree of equality in programs that are crucial to healthcare in the Island. These programs include:

- Medicare Part B premium buy-in payments for dually eligible beneficiaries;
- Long-term care services and support
- Non-flu adult vaccinations as recommended by the CDC;
- Non-emergency transportation;
- Diabetes mellitus DME and supplies; and
- Increased funds for distressed hospitals and dentists.

I urge you to make funding for the Puerto Rico Medicaid program a priority and to provide it with the funding it requires to adequately serve the millions of Americans in Puerto Rico who depend on it for their healthcare. Although our ultimate goal should be full equity, I urge you to work towards providing the Puerto Rico Medicaid program the immediate funding it needs, at the levels requested, to avoid the collapse of our healthcare system.

I again thank you for your invitation to testify on this urgent matter.

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<sup>8</sup> Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF), Budget Submitted to the FOMB, March 8, 2021 <https://www.aafaf.pr.gov/wp-content/uploads/Revised-Fiscal-Plan-PR-2021-2022.pdf>.