



GOBIERNO DE PUERTO RICO
Administración de Seguros de Salud

Hon. Ricardo A. Rosselló Nevares
Gobernador

Sra. Ángela M. Ávila Marrero
Directora Ejecutiva

June 7, 2019

The Honorable Gregorio Kilili Camacho Sablan
Vice Chairman for Insular Affairs
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Vice Chairman Sablan,

Thank you for holding the critically important oversight hearing entitled "The Insular Areas Medicaid Cliff" on May 23, 2019 and allowing me to provide information about the impact of the impending Medicaid "fiscal cliff" on the United States citizens living in Puerto Rico. As the testimony presented by representatives of the territories indicated, the lack of action by Congress and the Administration will result in a public health crisis in Puerto Rico and the sister territories.

Please find enclosed my responses to the questions for the record presented by the Committee. Please do not hesitate to contact me if you require additional information. I can be reached at (787) 474-3300 ext. 3003 or via email at aavila@asespr.org.

Respectfully,

Angela M. Avila Marrero
Executive Director
Puerto Rico Health Insurance Administration (ASES)





Questions for the Record by Democratic Members:

Questions from Representative Sablan:

- 1) If Congress finally treats the territories equitably and provides uncapped funding with federal match determined in the same way as states, what would Puerto Rico do to ensure that Medicaid beneficiaries have access to comprehensive services comparable to what states must provide?
 - a) With the additional federal funding, what specific investments could you make to improve eligibility and benefit over time?

Response: For the first time since the beginning of the program, Puerto Rico would be able to stabilize the Government Health Plan by having adequate funding for the provision of services. Currently, Puerto Rico covers many mandatory services for all beneficiaries, and additionally covers some optional services such as dental care, pharmacy benefits and some behavioral health services. Providing all mandatory services such as Nursing Facility Care and Non-Emergency Medical Transportation requires reliable long-term funding, sufficient time to assess the need and current provider capacity in Puerto Rico and remedy any deficiencies in capacity and infrastructure to support the new services. ASES is fully committed to initiating these projects if the funding is available.

Specific investments include provider capacity, development, and availability; management capacity and subject matter expertise within the Medicaid agency; IT solutions; and stakeholder outreach and training for Medicaid staff, the provider community, the managed care organizations, and broader stakeholder community. In addition, with the available funding Puerto Rico would:

- *Increase provider reimbursement;*
- *Provide life-saving Hepatitis-C drugs;*
- *Provide improved financial support to hospitals;*
- *Provide Medicare Part B Premium coverage for approximately 282,000 Medicaid and Medicare dual eligible individuals that pay the Medicare Part B premium out-of-pocket or opted not to enroll in Medicare Part B due to the cost; and*
- *Adjust the Puerto Rico Poverty Level to cover more uninsured or underinsured individuals.*

In the event that Puerto Rico receives sustainable funding sufficient to cover the costs of providing long term care, we would also invest in the administrative framework required to support the provision of these services and begin reimbursing the same.

2) What improvements in your health care infrastructure would be needed?

a) Would dedicated up-front funding be needed to make those changes?

Response: Funding would be needed for Puerto Rico to be able to begin reimbursement of mandatory services that are not currently being provided. Dedicated up-front funding would also be needed to create the necessary infrastructure to begin providing such services and perform responsible oversight of the same. We would need to build and improve infrastructure across all areas of the program in order to be able to operate in a more “state-like” manner. Puerto Rico would need to invest in additional staff and staff training and development at Medicaid and ASES. We would continue and expand investments in IT solutions to efficiently oversee the Managed Care Organizations (MCOs) and we need to build formalized structures from policy to payment for any new services.

We would need to invest in our providers and support their capabilities with regard to electronic health records (EHR) and provide adequate reimbursements such that they may invest in upgrades to infrastructure and equipment. We are working on a strategy to ensure dollars earmarked for increased provider reimbursement reach providers under managed care, whether the provider is an individual practitioner or part of a larger group practice. We cannot fully accomplish this without the reliable long-term solution we are requesting.

3) Would provider payments have to be increased and to what extent?

Response: Providers are leaving the island for a variety of reasons, including the low reimbursement rates that barely covers the basic cost of providing services and for the lack of financial stability to improve their practices, equipment and technology. The number of registered physicians in Puerto Rico continues to decrease due to low reimbursement rates and lack of infrastructure. This is especially problematic with key specialty physicians. An increase of provider rates to a minimum of 70% of Medicare rates in Puerto Rico is necessary to begin the process of retaining our providers.

4) Are there particular Medicaid eligibility, benefit or other requirements you wouldn't be able to meet within a reasonable time due to territory-specific limitations, and if so, what changes could Puerto Rico make to ensure residents get high quality health care in other ways that meets their needs?

Response: As indicated in the responses to questions one and two, significant changes to the array of services or system of care will require planning, resources and time. Some changes may require recruiting provider types, building licensing requirements, and modifying Puerto Rico regulations to account for services that do not currently exist, like free-standing birth centers. In addition, ASES must work cooperatively with the Fiscal Oversight Management Board (FOMB) and the ASES Board of Directors to plan and implement substantial changes to the program. Some initial changes which could occur in the near-term would include immediate coverage of Hepatitis C drug, increases to provider reimbursements that will allow Puerto Rico to rebuild the network, and increases to the

Puerto Rico Poverty Level. It could also increase its staff to levels that would allow improved oversight of the program, noting that Puerto Rico currently only spends approximately 2.5% of program budget on administration of the Government Health Plan, compared to approximately 5% administrative spending in other States. This shortfall in human resources would have to be addressed in the event Puerto Rico begins providing mandatory services it currently is unable to.

- 5) Overall, what do you see as the necessary steps to better ensure access to quality, comprehensive care for Puerto Rico residents and what would be a reasonable timeframe to reach such a goal?

Response: *Puerto Rico's primary need is sufficient and reliable long-term funding that will allow it to improve provider reimbursements and provide services it is currently unable to due to low funding levels. The transition from the Medicaid program as it is delivered today to a more robust and state-like program would be accomplished in stages, with some areas completed more quickly (in the next 0-2 years) while others such as the addition of long-term care or complex IT solutions may take more than 5 years.*

- 6) What will you have to cut if you go off the cliff?

Response: *Puerto Rico would have to conduct a review of all current benefits and potentially remove any services that are not required under Medicaid rules, such as Pharmacy coverage and Dental coverage, which would be catastrophic to the health and well-being of Puerto Rico's population. Our review may also identify mandatory benefits for which we will need to apply strict limitations to access those services that may not exist today. In addition, Puerto Rico currently covers an additional 125,000 enrollees who do not otherwise qualify under the current Medicaid eligibility rules using only Puerto Rico funds. These low-income individuals and families may lose coverage completely, and at less than \$800.00 per month income, will be unable to afford private coverage. Puerto Rico will have to pay for most required Medicaid services entirely from local funds that are not available in our budget at this time.*

Puerto Rico will be unable to improve hospitals, clinics, and other healthcare infrastructure as funds will have to be diverted to current Medicaid obligations. We will also continue to lose medical providers as they emigrate outside of Puerto Rico because we will not be able to ensure reasonable reimbursements to retain this critical workforce. Our healthcare workforce shortage is compounded by our inability to attract new medical professionals to Puerto Rico due to concerns of financial instability, which is especially problematic regarding specialty providers needed to treat prevalent health conditions.

- 7) What will be the impact on individuals and the health care delivery system in the territory, when Obamacare funding ends this year?

Response: *It is expected that a catastrophic chain of events will occur. Current enrollees may lose essential benefits and experience increasing shortages of providers, particularly*

specialists. These shortages will result in increased wait times for appointments, which in turn creates worsened medical and behavioral health conditions. In the event no further additional funding is identified and drug coverage has to be terminated, Puerto Rico will have effectively ceased covering the medical needs of its most vulnerable population, one which will be unable to provide for itself. This would certainly mean the difference between life and death for many beneficiaries.

Puerto Rico may also have to end all coverage for the current population that receives healthcare using only local funds. Those who are able, will leave the island to seek more reliable care in Florida, Texas, New York and other continental states, thus damaging the stability of Puerto Rico and incurring additional costs for those Medicaid programs.

If we reduce services, we will have to prepare for the negative impact on people's health and will most likely face a mental health crisis as individuals and families continue to struggle to have their most basic needs met.

Questions for the Record by Republican Members

Questions from Representative Gonzalez-Colon:

- 1) Ms. Avila, to have a broader picture of what insufficient funds would look like on the ground, how many people in Puerto Rico will lose their health care coverage if we do not address the impending Medicaid cliff? How will they see their benefits or coverage reduced?

Response: Currently the Puerto Rico Poverty Level used to determine eligibility for Medicaid is less than the Federal Poverty Level. This means that only a small fraction of people who would be eligible for Medicaid in Florida or Alabama are eligible for Medicaid in Puerto Rico. Puerto Rico's already extremely low thresholds for Medicaid eligibility mean that we are unlikely to further reduce our eligibility standards. However, we do cover an additional 125,000 individuals who are not eligible under our federal program using only local funds. These government enrollees may lose coverage if no further federal funding is appropriated. Reductions in benefits are almost certain and would be focused on non-mandatory benefits such as dental and prescription drug coverage.

- 2) Last Congress, in response to the devastation of Hurricanes Irma and Maria, we successfully secured an increase in the federal cap to \$4.8 billion for Puerto Rico's Medicaid program at 100% FMAP, which expires at the end of this fiscal year. Within this, an increase was to be made available if HHS certified that Puerto Rico had taken steps to report reliable data to the Transformed-Medicaid Statistical Information System and had established a Medicaid Fraud Control Unit.

- a. Has Puerto Rico been able to access the entire \$4.8 billion increase in the cap, including the additional \$1.2 billion?

Response: Yes, Puerto Rico met the required standards to access all funds. The report to Congress issued by the Centers for Medicare and Medicaid Services (CMS) noted that Puerto Rico implemented the requested requirements faster than any other state or territory. This demonstrates Puerto Rico's capacity to operate a program of the highest standards so long as adequate funding is available.

- 3) Did HHS certify that Puerto Rico was reliably reporting data and established a Medicaid Fraud Control Unit? What is the status of the implementation of a Medicaid Fraud Control Unit in Puerto Rico?

Response: Yes, the island's Medicaid Fraud Control Unit (MFCU) is fully certified and operational. It has already received referrals and is conducting investigations, in coordination with the HHS-OIG.

- 4) How does the longstanding, unequal treatment under the Medicaid program, and the fact that we are facing a cliff every couple of years, impact the Government of Puerto Rico's ability to budget for, modernize and reform our health care system? How does it impact your ability to deliver high-quality services to our most vulnerable citizens?

Response: Without predictable, long-term funding solutions, the Government of Puerto Rico is unable to plan and reliably manage necessary changes and improvements to the Medicaid program such as adding mandatory benefits like nursing home facilities, expanding eligibility standards, or increasing provider payments. The temporary funding solutions that Puerto Rico has received in the past have been helpful and necessary but have resulted in short-term solutions that do not allow Puerto Rico to responsibly plan and strategize for the future. Puerto Rico needs the security to invest in sustainable permanent solutions on which our beneficiaries and providers can count on.

Additionally, facing a funding cliff every few years consumes considerable time and effort in order to create contingency plans, budget scenarios, and devising strategies to advocate for federal funds. The time and money spent on this recurring matter can be better spent on improving the program and quality of services offered.

- 5) As you are aware, over the last couple of years Puerto Rico has been facing a shortage of doctors. Some estimates show that from 2006 to 2016, the number of physicians and surgeons on the island dropped from 14,000 to 9,000. This trend was undoubtedly exacerbated by the 2017 hurricanes.

- a. Can you elaborate on how many doctors are currently on the island and briefly discuss how the Medicaid cliff and the uncertainty of funds contribute to our shortage of physicians? How does it prevent us from attracting new medical professionals?

Response: The question for Puerto Rico's Medicaid program is not just the number of physicians available on the island, but instead the number who are willing to participate as

providers in the Medicaid program where reimbursement rates are very low. The number of providers has decreased over the years due (in part) to low reimbursement rates, deteriorating infrastructure, and practice conditions. As Puerto Rico has difficulty incentivizing new physicians to move to or stay on the island, older physicians are retiring and reducing the available workforce.

The exodus and attrition of providers is especially critical for specialist who receive much higher reimbursement rates and enjoy more favorable work conditions on the mainland. The uncertainty of federal funds has not permitted Puerto Rico's Medicaid program to invest in provider reimbursements and payment arrangement that can attract and retain our healthcare professionals. In fact, the FOMB has permitted ASES to temporarily suspend planned provider reimbursement cuts thanks to the BBA funding provided after the hurricanes. However, this temporary stay is only permitted while these funds are available. Therefore, the long-term planning of initiatives that can help retain and attract providers is not dependent on the amount of funding available at any given moment, but the certainty that any initiative that we develop will have enough financing from both local and federal funds in the longer term.

- 6) You mentioned in your written statement that due to Puerto Rico's unequal treatment under the Medicaid program and the historically low funding we receive; the island has been forced to limit Medicaid eligibility to income levels well below the federal poverty level used by the States.
 - a. Do you have an estimate of how many Medicaid eligible individuals are currently not covered in Puerto Rico because of the disproportionately low level of federal funding? How many more people would we be able to cover if the island received state-like treatment?

Response: If Puerto Rico received state-like treatment, the Federal Medical Assistance Percentage (FMAP) would be approximately 83%, and the amount of federal funds received would not be capped. This would allow Puerto Rico to increase the Puerto Rico Poverty Level (PRPL) to cover currently uninsured populations. Based on projections, we would increase the PRPL to provide Federal Medicaid to approximately 140,000 additional individuals.

- 7) It is my understanding that although the federal rules for Medicaid benefits generally apply to the island, Puerto Rico provides only 10 of Medicaid's 17 mandatory benefits, in large part due to insufficient funding.
 - a. Could you provide examples of services currently covered by Medicaid in the 50 States but that you are not able to offer in Puerto Rico due to this unequal treatment?

Response: Due to inadequate federal funding and unequal treatment, Puerto Rico is unable to provide the same Medicaid benefits to its residents as states provide. As a result, the nearly 1.5 million Medicaid recipients in Puerto Rico do not receive:

- *Home Health Services for those entitled to Nursing Facility Services*
- *Nursing Facility Services*
- *Certified Pediatric and Family Nurse Practitioner Services*
- *Non-Emergency Medical Transportation*
- *Nurse Midwife Services*
- *Freestanding Birth Center Services*
- *Emergency Services for Legalized and Undocumented Aliens*

8) Would you agree that not addressing the Medicaid cliff, in Puerto Rico and the rest of the U.S. territories, will cost the federal government and the American taxpayer more money over time than if we enact a solution now?

- a. For instance, any money that is currently being saved by not giving Puerto Rico equal treatment will likely be at least partially offset by the additional costs borne by the federal government and state governments as a result of conditions-based migration from Puerto Rico to the U.S. mainland?
- b. Isn't it more cost effective to enact a long-term solution?

Response: a. Yes, our experience has been that the need for appropriate medical care does not disappear simply because it is not available. Puerto Ricans have been moving to the U.S. mainland for a variety of reasons for a long time, including the need for improved healthcare. When they do, they join a state-side Medicaid program and begin accessing care at a rate that is twice or even four times more expensive than in Puerto Rico, who currently has the lowest per member per month rates among the States. Knowing that people will seek medical care with or without insurance coverage and that the care provided in a planned and preventative manner is better and less expensive care, it is certainly more cost-effective to enact a long-term sustainable funding solution now.

b. Analysis performed by the Medicaid and CHIP Payment and Access Commission (MACPAC) has shown that the total Medicaid spending per enrollee in Puerto Rico is less than just the Federal Share of Medicaid spending for the lowest cost State. The analysis accounts for the additional benefits that are covered in the U.S. and are not covered in Puerto Rico to make apt comparisons. This means that if a Puerto Rico enrollee moves to any of the States, the Federal government will be paying more per person than the total cost per person of providing care in Puerto Rico (Federal + Local funds). This spending difference will also grow over time because healthcare cost increases tend to be higher in the mainland U.S. than in Puerto Rico.

- 9) Over the past few years this Committee has made it a priority to ensure Puerto Rico has the necessary tools to improve our economy and stabilize our finances although it's important to recognize that this committee doesn't have jurisdiction over the Medicaid program.
- a. Could you discuss how the Medicaid cliff hurts these efforts? That is, how does it hurt Puerto Rico's economy and our efforts to balance our budget and stabilize our finances?

Response: The Medicaid program is approximately 30% of the Government's FY2020 budget and provides healthcare benefits to close to half of the island's population. Consequently, the Medicaid programs expenditures, in the form of reimbursement to providers, contracting of local vendors, and payment for ancillary services is a large contribution to the Puerto Rico healthcare industry and ultimately the island's economy. If the program does not receive any additional federal funding, the financing of the Medicaid program will decrease, because the funding gap leftover by the cliff cannot be replaced with state funds. Consequently, the money that is paid to our providers, hospitals, ancillary healthcare workers and for administrative support will greatly decrease and will cause a downstream economic decrease, job loss, and further deterioration of the healthcare infrastructure.

As long as the funding provided for the program is insufficient, the Government must allocate funds from other necessary services such as education, roads, and infrastructure projects thus hurting the overall economy and investment.

The Congressional Task Force on Economic Growth in Puerto Rico report of the 114th Congress recommended that Puerto Rico and the territories should be treated in a more equitable and sustainable manner in Medicaid funding for many reasons, including to "stabilize and strengthen the fiscal condition of the territory governments". Sufficient and long-term federal funding for the Medicaid program will mean that Puerto Rico will have the ability to adequately compensate providers, increase hospital investment, incentivize investment in healthcare infrastructure and provide security to our healthcare workers and beneficiaries that the program will improve and provide better quality services. Undoubtedly, this certainty will have a positive economic effect for Puerto Rico's economy as a whole as the Congressional Taskforce on Economic Growth in Puerto Rico recognized.

- 10) It has been said that there is no real "Medicaid Financing Cliff" for Puerto Rico because the Financial Oversight and Management Board established by PROMESA has required the Government of Puerto Rico to assume that no further federal financing will be provided and to fund this program as part of the Fiscal Plan.
- a. Why should Congress increase the funding for the Puerto Rico Medicaid program, if according to some, sufficient local funds have been set aside for this purpose?

Response: The premise that there are sufficient local funds set aside for this purpose is incorrect. The method by which the FOMB considers the expiration of federal funds in relation to the long-term financing of the program, is not by providing additional local funds to replace the gap leftover by the Medicaid Cliff, but by making “significant reductions in healthcare spending necessary”. The fiscal plan details the “stop-gap measures” that will be implemented to compensate for the loss of federal funding such as: reduction in provider reimbursement, elimination of benefits, restricting access to care, and increases in member cost-sharing. Furthermore, the FOMB has not evaluated the viability of these stop-gap measures or taken into account the downstream effects of these cuts for the Puerto Rico healthcare system and Puerto Rico’s economy as a whole.

While we agree that some initiatives presented in the fiscal plan are achievable and are being diligently implemented, such as improving quality of care via value-based payments, and reducing fraud, waste, and abuse, to conclude that the fiscal plan provides a path for a sustainable Medicaid program with no additional federal funding is false.

- 11) How will the overall healthcare system and the non-Medicaid population in Puerto Rico be affected if Medicaid funding is not increased for FY2020?

Response: If no additional funds are appropriated, the cost of healthcare in Puerto Rico is expected to rise overall. The amount of uncompensated care borne by our hospitals, Federally Qualified Health Centers and other safety net providers will rise. Much of that cost will be passed on through higher fees and premiums to individuals with private insurance and those who are uninsured. Shortages of providers will continue to increase, and general health outcomes will worsen. When people are unwell, they are less productive at home and at work and ultimately further deteriorate the well-being of the island’s economy overall.

- 12) Currently, the Social Security Act provides for capped Medicaid funding for the territories. For FY 2017, the cap in Puerto Rico was \$347.4 million. How much did the Medicaid program benefits actually cost?

Response: Approximately \$2.4 billion in Medicaid-only spending, at current program levels, which reflects unsustainably low provider rates and does not include certain mandatory services such as nursing health facilities, hepatitis C drugs, and non-emergency medical transportation, among others.