



**Statement of Angela Avila  
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U.S. House of Representatives Committee on Energy and Commerce  
Oversight Hearing: “Strengthening Health Care in the U.S. Territories for Today and Into  
the Future”  
Thursday, June 20<sup>th</sup> at 10:30 A.M. – 2322 Rayburn House Office Building**

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Chairman Pallone, Ranking Member Walden, Chairwoman Eshoo, Ranking Member Burgess, and Members of the Committee:

Thank you for the opportunity to testify today on Puerto Rico’s healthcare system, and how we can work together to strengthen it to better serve the nearly 3.2 million U.S. citizens who call Puerto Rico their home. I am honored to be here on behalf of the Government of Puerto Rico and to be joined at the witness table with my colleagues from the other territories. We are united in our need for sustained federal funding for our healthcare systems so that we can provide adequate healthcare to our people.

While we are here today to discuss ways Congress can strengthen healthcare in the U.S. territories, in Puerto Rico, the looming threat to our healthcare system is the impending Medicaid funding cliff and the significant and detrimental impact this cliff will have if Congress fails to act. Puerto Rico’s Medicaid program serves approximately 1.5 million people, nearly half of the Puerto Rico’s population, including 425,000 children, 305,000 elderly and disabled individuals, and more than 17,000 pregnant women at any given time. The population we serve makes Puerto Rico’s Medicaid and CHIP program the 15<sup>th</sup> largest in the United States, ranked by enrollment.<sup>1</sup> Our

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<sup>1</sup> Based on CMS February 2019 enrollment data. <https://data.medicaid.gov/Enrollment/2019-02-Updated-applications-eligibility-determina/7gzq-etgt/data>

beneficiaries are served by over 5,000 doctors, 64 hospitals, 20 federally qualified health centers, 900 community pharmacies, and thousands of healthcare professionals such as nurses and health technicians who dedicate much of their time to take care of Medicaid patients. The large proportion of the population that receives healthcare benefits through Medicaid makes the Program a key pillar of the Puerto Rico's overall healthcare system.

As this Committee is well-aware, in just a few short months, on September 30<sup>th</sup> of this year, the increased Medicaid funding and the temporary 100% Federal Medical Assistance Percentage (FMAP) Puerto Rico received in the aftermath of Hurricane Maria through the Bipartisan Budget Act of 2018, P.L. 115-123, (BBA) will expire. It is only through this additional federal funding and the 100% FMAP provided in the BBA, that Puerto Rico has been able to sustain its healthcare system. We thank the Members of this Committee who worked to ensure Puerto Rico received this necessary funding and the 100% FMAP. The FMAP permitted Puerto Rico to maintain the continuity of the program without having to rely on limited State funds during the emergency period. Additionally, the BBA allowed Puerto Rico to launch a new managed care model, strengthen program oversight, add new HIV prescription drugs to the formulary<sup>2</sup>, and work towards the first dental reimbursement rate increase in 25 years.

We have made great progress in our program since the devastating hurricanes, thanks to the BBA, however; all that progress is in jeopardy due to the uncertainty of no additional federal funding.

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<sup>2</sup> Trogarzo, Jaluca, and Biktary were added to the prescription drug coverage in December 2018.

## Supplemental Federal Funding Background

The two main financing mechanisms for Puerto Rico's Medicaid program has been the section 1108<sup>3</sup> capped funds and supplementary increases to this funding from American Recovery and Reconstruction Act (ARRA)<sup>4</sup>, Affordable Care Act (ACA)<sup>5</sup>, Consolidated Appropriations Act of 2017<sup>6</sup>, and the Bipartisan Budget Act of 2018<sup>7</sup>. Over the last decade, Puerto Rico has taken advantage of the additional federal funding by further complying with mandatory Medicaid benefits, expanding income eligibility thresholds through ACA expansion, improving its managed care model and strengthening program integrity and IT infrastructure. However, over this time, increased medical trends, aging population demographics, and large increases in prescription drug costs have consumed a significant portion of the additional funding provided to Puerto Rico. While these issues affect Medicaid programs in all States, they enjoy the guarantee of unlimited federal funding at the appropriate federal matching percentage (calculated based on income per capita in each State), which Puerto Rico is currently excluded from. While States have been able to deal with these challenges in great measure because of the flexibility of their financing, Puerto Rico has been forced to forego long-term planning for its Medicaid program aimed to improve outcomes and strengthen its healthcare system. Because of this, it has had to focus on short-term fiscal measures to comply with statutory budget constraints and federal requirements. For example, Puerto Rico has had to limit provider reimbursement increases, reduce administration margin for

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<sup>3</sup> 42 U.S.C. 1308.

<sup>4</sup> P.L. 111-5.

<sup>5</sup> P.L. 111-48.

<sup>6</sup> P.L. 115-31.

<sup>7</sup> P.L. 115-123.

Managed Care Organizations (MCOs), not provide all mandatory Medicaid benefits, and been forced to not cover lifesaving drugs because it is unable to leverage federal financing.

The result of the historical piecemeal financing for Puerto Rico is a weakened healthcare system, inadequate reimbursement rates, provider shortages, and limited access to care for some of the most vulnerable residents of the island, such as children and elderly Medicaid and Medicare dual eligibles.

### Effect of Hurricanes on Healthcare

The catastrophe of Hurricanes Irma and Maria in September 2017 and their effect on the Puerto Rico healthcare infrastructure, particularly hospitals, was exacerbated by years of limited healthcare financing. Due to low reimbursement rates our facilities were forced to make fiscal decisions, such as closing hospital wings, aimed at short-term cost containment, rather than investments that could prepare for such disasters. These facilities are still recovering from the hurricanes and still face the same difficult choices because they do not have any certainty that reimbursement rates will increase to levels that would compensate for their investment. Additionally, many providers have made the difficult decision to leave Puerto Rico to move to the States in search of better salaries, benefits, and practice conditions.

Having a limited healthcare infrastructure and workforce also made recovery from the hurricanes difficult, as evidenced by the brigades of medical professionals that came to aid the American citizens of Puerto Rico. If Puerto Rico had been able to provide its healthcare workers with adequate reimbursement rates, it may have been better able to cope with the disasters and its immediate effects. Notably, a significant number of deaths in the aftermath of the hurricanes were

elderly American citizens that were unable to care for themselves during the emergency. If Puerto Rico had adequate funding to provide home health and nursing care facility services for Medicaid beneficiaries, which it is currently unable to provide, many of these deaths could have been avoided. Thus, the biggest challenge that Puerto Rico continues to face in its recovery is the lack of funding to make improvements to its healthcare infrastructure to better care for patients, retain and attract healthcare providers, and make available the services that our population desperately needs.

### Puerto Rico Medicaid Funding Request

On May 1, 2019, the Governor of Puerto Rico, the Honorable Ricardo Rosselló submitted Puerto Rico's official Medicaid ask to Congress - \$15.1 billion in funding at an 83% FMAP for five years in order to prevent the collapse of the healthcare system.<sup>8</sup> The request would provide certainty in the short term while Congress works with the Government of Puerto Rico to determine a sustainable, long-term funding mechanism that eliminates the statutory inequity and allows us to meet the healthcare needs of our most vulnerable residents. The 83% FMAP – which is the matching rate that would be available to Puerto Rico under the statutory formula applied to the States – is necessary to access the increased federal funding given the shortage of local funds.

This funding certainty and stability for Puerto Rico's Medicaid program would also allow for responsible long-term budget planning and strategizing between the Government of Puerto

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<sup>8</sup>This assumes that other Federal matching requirements and funding under the Medicaid program remain in place during this period for areas such as CHIP allotments, MMIS, Eligibility and Enrollment, and Medicare Part D co-insurance and deductibles.

Rico and the FOMB. As part of the Governor's request, we have identified critical sustainability measures needed to further stabilize and improve the healthcare system in Puerto Rico as a whole:

- **Keep physicians within the system to avoid critical shortages** – The number of registered physicians has decreased due in part to low reimbursement rates and lack of infrastructure. For example, primary care physicians are paid only 19% of the Puerto Rico Medicare fee.<sup>9</sup> 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.
- **Provide life-saving Hepatitis-C drugs** – Unlike the Sates's Medicaid system, currently, Puerto Rico's Medicaid system does not cover Hepatitis-C virus treatments, including those that are capable of curing the condition, even though there are an estimated 14,000 Puerto Ricans with the disease. While the short-term cost of proving this benefit is high, significant savings can be realized in the long term (approximately five years) by investing in treatments which would avoid costly hospitalizations, dialysis, complications due to cirrhosis, and care to support organ-transplanted patients, not to mention the avoidance of the psychological and emotional toll of undergoing such physical deterioration. The provision of Hepatitis C treatments is a perfect illustration of how providing certainty of funding can allow Puerto Rico to better maximize its available resources to bring about long-term savings as well as improvements to the overall health of the population.

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<sup>9</sup> MACPAC June 2019 Report to Congress.

- **Prevent collapse of hospital system due to losses** – According to the latest Centers for Medicare and Medicaid Services (CMS) cost reports, over 50% of Puerto Rico’s hospitals reported losses. Because Medicaid covers over half of the population in Puerto Rico and has the lowest reimbursement rates for hospitals, our funding status jeopardizes the hospitals’ ability to operate and reinvest in infrastructure. Additional funds are needed to compensate hospitals for losses attributable to Medicaid.
- **Provide Medicare Part B Premium coverage** – Coverage of Part B premiums has the potential to help approximately 282,000 Medicaid and Medicare dual eligibles that pay Medicare Part B premium out-of-pocket or opted not to enroll in Medicare Part B due to the cost. In most cases, beneficiaries pay Part B premiums directly through Social Security check deductions, which for most recipients is their sole source of income. Since premiums can be as high as \$135.50 per month, some elderly residents must choose between food, rent and healthcare. This is a choice only American citizens in Puerto Rico are forced to make, as it is a covered Medicaid benefit in the States.
- **Adjust the Puerto Rico Poverty Level to increase fairness in Medicaid eligibility** – Due to the disproportionately low level of federal Medicaid funding, Puerto Rico has been forced to limit Medicaid eligibility to income levels well below the Federal Poverty Level (FPL). The Puerto Rico Poverty Level (PRPL) is less than 50% of the FPL. For example, Puerto Rico covers individuals with income up to 138 percent of the PRPL, which is \$11,736 annually for a family of four or approximately 46 percent of the FPL for a family

of the same size in 2019 on the mainland. As a result, a significant percentage of vulnerable families and individuals in Puerto Rico lack healthcare coverage.

Currently, Puerto Rico covers approximately 120,000 individuals with incomes between \$610.00—which is the income threshold for Medicaid eligibility—and \$800.00 monthly gross income, using only local revenues with no access to federal matching funds. In the event that no additional funding becomes available Puerto Rico may cease to cover these beneficiaries and they may have no choice but to move to the States in search of adequate healthcare coverage.

## Consequences of the Medicaid Cliff

Absent swift Congressional action for fiscal year 2020, Puerto Rico's FMAP will revert to the statutorily mandated 55% FMAP for most of our Medicaid program, up to the Federal Medicaid funding cap of approximately \$380 million, which is the only source of recurrent Medicaid funding for Puerto Rico. If Puerto Rico only receives its statutory cap of \$380 million at the fixed FMAP of 55% for FY20, federal funding of Puerto Rico's Medicaid will only last three (3) months. The capped amount, in addition to the remaining Affordable Care Act (ACA) funds, would mean an effective FMAP of only approximately 30% in fiscal year 2020 and 13% in fiscal year 2021. This, compared to the 83% FMAP Puerto Rico would receive by statute if determined by the income per capita formula.

Unless Congress acts before September 30, 2019, Puerto Rico will face potentially catastrophic changes to its Medicaid program and overall healthcare system:



- We will 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.
- We may have to end coverage for the current low-income population (earning between \$610.00 and \$800.00 a month in gross income) that receives healthcare using only local Puerto Rico funds with no federal matching.
- We will face further delays in much needed improvements to our hospitals, clinics, and other healthcare infrastructure as funds will have to be diverted to current Medicaid obligations.
- We will continue to lose more of our medical professionals because we will not be able to ensure reasonable reimbursement. 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 with regards to specialty providers needed to treat complex and prevalent health conditions.
- Finally, we will face a mental health crisis as individuals and families continue to struggle to have their most basic needs met, particularly in the aftermath of Hurricane Maria which provoked a 20% increase in suicide rates.

In summary, once the cap established by Section 1108 of the Social Security Act is exhausted, Puerto Rico would have to fully fund the deficit in Federal Medicaid funding, as it has in the past, and pay for its Medicaid services with 100% local funding. Given Puerto Rico's current

financial situation, additional local funding is not available, such that the only alternative is to cease providing services by either reducing eligible individuals, cutting benefits, or both.

## Program Integrity Efforts and Oversight

Since July 1, 2011, Puerto Rico has received \$11.4 billion in supplemental Medicaid funding and has focused every effort to maximize these funds providing medical benefits to as many enrollees as possible. There are 7 states that receive at least that amount of federal funding in one year.<sup>10</sup> Puerto Rico's total Medicaid spending per enrollee is 38% lower than just the federal share of the State with lowest spending per enrollee.<sup>11</sup> In addition, program administration expenditures, as a percent of total cost, is lower than the national average. Puerto Rico has made extraordinary efforts and worked tirelessly to provide the best care for its citizens with the fewest resources. We recognize that additional long-term Federal support comes with additional responsibility to ensure that the Medicaid program is efficient, effective, and accountable. Toward that end, we have already taken several actions outlined below:

- We implemented a fully functioning Medicaid Management Information System (MMIS).
- We implemented a Medicaid Fraud Control Unit (MFCU), which is fully operational.
- We enhanced our most recent Managed Care Organization (MCO) Contracts with additional requirements related to encounter data, program integrity activities, achieving

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<sup>10</sup> Sources: For state and territory spending: MACPAC, 2018, analysis of CMS-64 FMR net expenditure data as of July 20, 2018. For all other spending (MCFUs, survey and certification, VFC program): CMS, 2018, *Fiscal year 2019 justification of estimates for appropriations committees*, Baltimore, MD, <https://www.cms.gov/About-CMS/Agency-Information/PerformanceBudget/Downloads/FY2019-CJ-Final.pdf>.

<sup>11</sup> After adjusting for benefits covered and enrollment mix. From MACPAC June 2019 Report to Congress.

improved health outcomes, and one of the highest Medical Loss Ratios in the nation at 92%.

- We are conducting retrospective claims audits to ensure minimization of waste.
- We are strengthening program oversight by enhancing encounter data quality validation and developing a provider portal that gives visibility to their data.
- We are paying capitation rates that reward MCOs based on quality of services rendered through conditions based rates cells and risk adjusted per member per month (PMPM) rates.
- We have taken a step towards value-based payments and measuring hospitals on quality by implementing an inpatient hospital DRG payment system in FY 2020.

We believe that all of these efforts, in addition to our complete responsiveness to the Financial Oversight Management Board (FOMB) created by Congress under the Puerto Rico Oversight Management and Economic Stability Act (PROMESA), P.L. 114-187, indicate Puerto Rico's ongoing commitment to ensuring the integrity, oversight of our programs, and responsible stewardship of the Federal Medicaid funding that we receive.

### How Can the Puerto Rico Medicaid Program Improve

Only through long-term adequate federal funding, can Puerto Rico continue program reforms and initiatives that can improve health outcomes and achieve efficiencies that will strengthen our healthcare system.



For example, ASES is currently designing and implementing a Diagnosis Related Group (DRG) payment system for hospital stays, similar to most Medicaid programs in the United States, which will go-live in FY2020. The system will tie hospital reimbursement to acuity of patient care and ultimately the quality of services provided. One key decision is to enhance the payment to hospitals that provide medical education, which would both incentivize new hospitals to develop a residency program and adequately compensate the facilities that already have them established. However, due to fiscal constraints, we are currently unable to project any enhancements in payment without reducing reimbursement rates to the facilities that cannot support these programs.

Many Medicaid beneficiaries also do not have access to transportation to their medical visits, for which reason Non-Emergency Medical Transportation (NEMT) is a mandatory Medicaid benefit. In Puerto Rico this benefit is generally not covered and is only provided through exception in extraordinary cases. Transportation on the island is difficult due to the geography of rural areas and lack of public transportation alternatives. Our goal is to be able to provide NEMT as a full benefit, which will reduce costs in the long term because it would avoid unnecessary ambulance rides and provide greater access to preventive and maintenance care.

In 2017, 20 percent of the Puerto Rico population was age 65 or older, 4 percentage points higher than the U.S. average and higher than all States except Florida and Maine.<sup>12</sup> Puerto Rico does not provide Long Term Services and Support (LTSS) to this population due to lack of funding, and consequently does not have adequate infrastructure currently in place to provide the benefit even if the funding was available. Therefore, to be able to provide care to our elderly we

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<sup>12</sup> Census 2017.

need to strategically plan on how to provide this benefit and invest in the infrastructure so it is available in the future. In other States the cost of this benefit can be up to a third of total program expenditures. This cost is prohibitive for Puerto Rico to even consider implementation at this time.

Mental Health services are a priority for any Medicaid program, and new initiatives and reforms are needed to improve the quality and access to these services in Puerto Rico. Many State programs have developed models and proposed waivers for community based services that address the social and mental determinants of health. For example, Puerto Rico is evaluating a peer support services program that is already implemented by most States, which could serve as the bridge between mental health services and the community, led by those that are in recovery and have experienced mental health issues themselves.

These reforms and initiatives are some of Puerto Rico's long-term priorities and goals for its healthcare system, which require smart planning and implementation. Puerto Rico would be in a much better position to enact this and other key policies if the Medicaid cliff is resolved with adequate and sustainable long-term funding.

## Conclusion

We reiterate our gratitude to Members of this Committee that worked to ensure that necessary funding was made available to Puerto Rico through the Bipartisan Budget Act of 2018. The increased funding and matching rate provided in the BBA allowed Puerto Rico to avoid a catastrophic Medicaid funding cliff during the aftermath of the worst natural disaster and public health emergency Puerto Rico has faced in recent memory. However, the respite provided by the

BBA will soon end as the funds expire on September 30, 2019, and the Medicaid cliff is upon us once again.

As we have stated in previous meetings with the Administration, in testimony before Congress, and recently the Medicaid and CHIP Payment and Access Commission (MACPAC) June 2019 report to Congress, although Puerto Rico is generally considered as a State for Medicaid purposes, including program requirements and responsibilities, its Medicaid funding has been insufficient for decades. The historically low FMAP, a correspondingly high local matching requirement, and the cap on Federal funding have imposed severe and unsustainable financial demands on Puerto Rico, culminating in the impending fiscal cliff which if not addressed by Congress in the next months will threaten the sustainability of the Puerto Rico's healthcare system.

The Medicaid cliff that Puerto Rico is facing is an emergency that must be dealt with urgently. As this Committee knows, the Government of Puerto Rico is currently in the midst of finalizing the FY19-20 state budget, which must happen by June 30, 2019. In addition, over the next month we will review the reasonability of premium for the next MCO contract year covering the period of November 1, 2019 to October 31, 2020. Given the uncertainty of federal funds during the period subject to negotiation, we ask that Congress address this issue in the next available legislative vehicle. Our proposal will allow Puerto Rico to continue providing urgent health care services to its citizens while we work to rebuild our healthcare infrastructure, economic viability, and will serve to provide a temporary "fix" to the disparate, arbitrary, and insufficient treatment that Puerto Rico continues to receive under the Medicaid Program.



Medicaid in Puerto Rico is the source of insurance that our people, both beneficiaries and providers depend on the most. If Congress wants to strengthen healthcare in Puerto Rico, then it must provide our Medicaid program with a sustainable, long-term funding that meets the needs of the American citizens of Puerto Rico. Eliminating the reoccurring “funding cliffs” would permit the Government of Puerto Rico make much needed investments, implement long-term strategies to improve outcomes, achieve efficiencies, and strengthen healthcare services in Puerto Rico.

I am grateful for the opportunity to share these facts with you and thank you for allowing me to present my written testimony before this Committee. I love my island – it is my home, and I am committed to working with Congress to create a Medicaid system that all of us can be proud of and that provides the necessary care to the 1.5 million Americans citizens who rely on it. We look forward to working together to address the immediate issue of the impending Medicaid fiscal funding cliff and we look forward to finding a solution that can eliminate the unequal treatment for Puerto Rico, provide parity for Medicaid enrollees and the full benefits of the Federal Medicaid program for our citizens and our providers once and for all. Thank you for your consideration and attention to these urgent matters.