



SEP 17 2019

Administrator
Washington, DC 20201

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Grassley:

Thank you for your letter and for the opportunity to provide additional information regarding the Medicaid program in Puerto Rico. The Secretary asked that I respond on his behalf. The Centers for Medicare & Medicaid Services (CMS) takes seriously our responsibility to strengthen the integrity and sustainability of the Medicaid program, including the Medicaid program in Puerto Rico, so it continues to serve the beneficiaries who rely on it most.

Medicaid Spending in Puerto Rico

Medicaid in Puerto Rico operates with an annual ceiling on federal financial participation (section 1108(g) of the Social Security Act). The Federal Medical Assistance Percentage (FMAP) is generally 55 percent (section 1905(b)(2)), with certain exceptions for supplemental funding appropriated by Congress, which are described in more detail below.

Federal funding for Puerto Rico's Medicaid program beyond its annual ceiling must be authorized by Congress. As you mention in your letter, Congress has temporarily increased Medicaid funding for Puerto Rico's Medicaid program several times in recent years. The Patient Protection and Affordable Care Act (PPACA, P.L. 111-148) provided the territories, including Puerto Rico, with additional federal funding for their Medicaid programs. Section 2005 of the PPACA provided a total of \$6.3 billion in additional federal funds for the territories, to be allocated by the Secretary and available to be drawn down between July 2011 and September 2019. The \$6.3 billion allotment was distributed among the territories in amounts proportional to each territory's annual capped amounts, with Puerto Rico's share being \$5.5 billion. Section 1323 of the PPACA provided an additional \$1 billion to the territories, \$925 million of which was directed to Puerto Rico and the remainder of which was allocated by the Secretary to the remaining four territories. These funds are available to be drawn down between July 2011 and December 2019, but only after a territory has exhausted its funds under section 2005.

While Puerto Rico had been required to use its annual allotments prior to spending funds provided through the PPACA, CMS recognizes the desire to use any available funds as effectively as possible. To that end, Puerto Rico's and the other territories' Medicaid programs

will be permitted to use their PPACA section 1323 funding prior to using their regular allotment for fiscal year 2020, since the section 1323 funding expires according to statute on December 31, 2019.

In February 2018, the Bipartisan Budget Act of 2018 (BBA 2018; P.L. 115-123) increased federal Medicaid funding for Puerto Rico's Medicaid program by \$3.6 billion for the period of January 1, 2018, through September 30, 2019. This funding was further increased by \$1.2 billion for Puerto Rico once the Secretary certified that Puerto Rico had taken steps to (1) report reliable data to the Transformed-Medicaid Statistical Information System (T-MSIS) and (2) establish a Medicaid Fraud Control Unit (MFCU). The additional federal Medicaid funding for Puerto Rico provided in BBA 2018 is provided at 100% FMAP.

Recent additional Medicaid funding for Puerto Rico combined with the higher federal match accompanying those funds has resulted in Puerto Rico contributing less to the financing of its Medicaid program. As a result, since fiscal year 2014, the effective federal match has been higher than the statutorily mandated 55 percent.

More detailed information on Medicaid spending and the effective federal match since 2014 is provided as an enclosure to this letter.

Medicaid Program Integrity

By making sure taxpayer dollars are used responsibly, Medicaid program integrity plays an important role in our shared goal of refocusing Medicaid on the nation's most vulnerable populations in order to provide a more robust level of care and a strengthened program overall. That is why, in June 2018, CMS announced a new Medicaid program integrity strategy to bring CMS into a new era of enhancing the accountability of how we manage federal taxpayer dollars in partnership with states.

Our vision for transforming the Medicaid program is grounded on three principles: greater flexibility, stronger accountability, and enhanced program integrity. Our strategy seeks to reduce Medicaid improper payments across states to protect taxpayer dollars. To do so, the strategy includes stronger audit and oversight functions, increased beneficiary eligibility oversight, and enhanced enforcement of state and territory compliance with federal rules.

The statute specifically exempts Puerto Rico from certain Medicaid program integrity requirements, including the Payment Error Rate Measurement program, the related Medicaid Eligibility Quality Control program, and an asset verification system with financial institutions. However, Puerto Rico's Medicaid program is subject to other program controls. For instance, since 2002, the Puerto Rico Department of Health (PRDOH) has operated an Anti-Fraud Unit that detects beneficiary fraud and abuse. This beneficiary-focused Anti-Fraud Unit has received recognition about its performance from the Department of Health and Human Services' Office of

Inspector General (HHS-OIG). On October 1, 2018, the PRDOH implemented a functional program integrity unit to detect provider fraud, waste and abuse. The unit has submitted several cases to the HHS-OIG.

To support program integrity, CMS is also working to ensure that Puerto Rico reports more robust, timely, and accurate data through the T-MSIS. And, HHS-OIG is overseeing the implementation of Puerto Rico's MFCU to ensure the integrity of the Medicaid program. We have elaborated on these two fundamental program integrity efforts below.

Data Reporting

Strong data systems are a key component of CMS's work to ensure better health outcomes and improve program integrity, performance, and financial management in Medicaid. That is why over the last several years, CMS has collaborated with states and territories to implement methods for collecting and reporting data to a critical component of our Medicaid information technology infrastructure, T-MSIS.

To incentivize better data collection, the BBA authorized an additional \$1.2 billion in supplemental funds to Puerto Rico if the Secretary certified that the territory demonstrated reasonable and appropriate steps to implement methods for collecting and reporting reliable data for T-MSIS and has displayed progress towards establishing an MFCU. Puerto Rico has been submitting T-MSIS data to CMS since January 2018 and has satisfactorily met T-MSIS milestones and requirements. As a result, the funds have been made available to Puerto Rico.

We are continuing to work with states and Puerto Rico to shift from simply collecting data to using advanced analytics and other innovative solutions to improve data and maximize the potential for program accountability and integrity purposes.

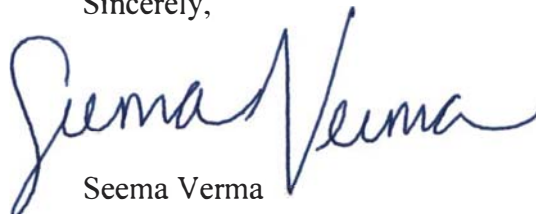
MFCU Implementation

MFCUs, state agencies responsible for the investigation and prosecution of Medicaid provider fraud, play a key role in Medicaid oversight. The HHS-OIG oversees all MFCUs, including the one in Puerto Rico. On May 21, 2018, the Secretary of the Puerto Rico Department of Justice (PRDOJ) signed Administrative Order 2018-2, creating an MFCU within the PRDOJ. In December 2018, a memorandum of understanding (MOU) was executed between the PRDOH and the U.S. Department of Justice so that Puerto Rico could establish an MFCU. This MOU articulates the terms of the operation of the Puerto Rico MFCU and describes how both the Puerto Rico Department of Justice and the federal Department of Justice will collaborate to ensure fraud, waste, and abuse are detected and corrective plans are implemented. Puerto Rico began operating its MFCU on January 1, 2019.

HHS-OIG has closely monitored the MFCU's progress and reports that the MFCU has hired attorneys and investigative staff who are actively working cases. In reply to the Senators' question, HHS-OIG believes that Puerto Rico has established a functioning MFCU. The Puerto Rico MFCU will also be subject to annual re-certification reviews by HHS-OIG starting in January 2020.

Thank you again for your letter. Should you have additional questions, please contact the CMS Office of Legislation at 202-690-8220. I will share this response with the co-signers of your letter.

Sincerely,

A handwritten signature in blue ink that reads "Seema Verma". The signature is fluid and cursive, with the first name "Seema" and the last name "Verma" clearly distinguishable.

Seema Verma

Enclosure

Enclosure

Medicaid Spending in Puerto Rico FY 2014-2018

Medicaid Expenditures in Puerto Rico, Fiscal Years 2014-2018				
Fiscal Year	Effective FMAP	Expenditures by Share (dollars in millions)		
		Puerto Rico Share	Federal Share	Total
2014	62.2%	794	1,350	2,144
2015	64.4%	896	1,652	2,547
2016	66.2%	847	1,805	2,653
2017	66.9%	820	1,800	2,621
2018	91.8%	219	2,464	2,683

Notes

- The expenditure data was reported by territories on their quarterly CMS-64 through the Medicaid/CHIP Budget and Expenditure System. Since all territories only operate CHIP Medicaid expansion programs, expenditures include both Medicaid and CHIP.
- Expenditure data represents total computable (territory share plus federal share) expenditures based on date of payment.
- For each fiscal year, the expenditures include Medical Assistance Payments, Administration Payments, Medicaid Management Information System Payments, Eligibility and Enrollment Payments, Health Information Technology Administrative Payments, Enhanced Allotment Plan Payments, and prior period adjustments.
- The expenditures might not represent the true cost of operating a Medicaid/CHIP program given annual federal allotments, statutory matching rates, and data lag. For example, the expenditures do not account for territory decisions to limit spending due to annual federal allotments, uncertainty of additional federal funding, or statutory matching rates.
- Section 1132 of the Social Security Act provides states and territories up to 2+ years to report expenditures to CMS to claim federal matching funds. Therefore, the expenditures on this table are incomplete and subject to change.

Supplemental Medicaid Funding FY 2014-2018

Supplemental Medicaid Funding, Fiscal Years 2014-2018		
Congressional Authority	Amount (dollars in millions)	Period Available
PPACA, Section 2005 ¹	5,476	July 2011 to September 2019
PPACA, Section 1323 ²	925	July 2011 to December 2019
Consolidated Appropriations Act of 2017, Section 202 ³	295	July 2017 to September 2019
Bipartisan Budget Act ⁴	4,800 ⁵	January 2018 to September 2019

¹ P.L. 111-148.

² As amended by the Health Care and Education Reconciliation Act, P.L. 111-152.

³ P.L. 115-31.

⁴ P.L. 115-123.

⁵ The Bipartisan Budget Act (BBA) provides \$3.6 billion in additional Medicaid funding to Puerto Rico for the period from January 1, 2018 through September 30, 2019. The law provides an additional \$1.2 billion to Puerto Rico if the U.S. Department of Health and Human Services Secretary certifies that Puerto Rico has taken reasonable and appropriate steps to implement methods for collecting and reporting reliable data for Transformed Medicaid Statistical Information System (T-MSIS) and to demonstrate progress in establishing a Medicaid Fraud Control Unit (MFCU).