



MMAAPA

Medicaid and Medicare Advantage
Products Association of Puerto Rico

mmapapr.com

April 30, 2015

The Honorable Sylvia M. Burwell
Secretary
US Department of Health and Human Services (HHS)
200 Independence Avenue, SW
Washington, DC 20201

Re: Puerto Rico Healthcare Crisis as a Result of the 2016 Final Rate Announcement & Call Letter

Dear Secretary Burwell:

The inaction by CMS in relation to the beneficiary and health system risks created by unique significant cuts to the Medicare Advantage (MA) program in Puerto Rico for 2016 has caught the United States citizens of Puerto Rico by surprise. Although the Final MA Ratebook and 2016 Call Letter (the “Call Letter”) mentioned Puerto Rico 27 times, the response to Puerto Rico was the consistent and clear message that CMS believes it does not have the authority to act on behalf of the beneficiaries of Puerto Rico, or that CMS needs more time to evaluate some of the key proposed policy fixes for future years. These responses are incredibly shocking and disappointing given the combined efforts of the Governor of Puerto Rico, the Resident Commissioner for Puerto Rico, selected members of the United States Congress, and the entire healthcare community in Puerto Rico to present the risks and proposed specific actionable solutions.

Many of Puerto Rico’s issues and proposals have been presented, discussed, debated and clarified for months, and in some occasions for many years, and yet the CMS response is still that *there is no action yet*. Do 560,000 Medicare beneficiaries not matter? Does it not matter that the United States citizens of Puerto Rico pay the same Medicare Tax and the same Part B premium as all other citizens in the US? Do you know that Puerto Rico has the 8th largest MA beneficiary population in the Nation – are our beneficiaries treated like those in Georgia, the nation’s 8th ranking state by population? We continue to believe that HHS understands the issues, thus we plan to continue our pursuit to work with Washington to come to a fair resolution on behalf of Puerto Rico’s beneficiaries.

As we have discussed with you previously, given the magnitude of the reductions to Puerto Rico’s MA payment rates and risk scores implicit in the Call Letter, preliminary estimates suggest that current Platino (D-SNP) benefit plans in Puerto Rico could operate at a material financial loss in 2016 even assuming a reduction in benefits down to the minimum levels mandated by Puerto Rico regulations for Platino members. This combination of events may result in MA plans being unable to bid on 2016 Platino products on June 1, 2015, the day required by CMS for bid submission. As you know, Puerto Rico’s MA plans consist of approximately 50% dual beneficiaries, *the largest percentage of “duals” in the United States*.

In general, the Medicaid and Medicare Advantage Product Association of Puerto Rico, Inc. (MMAPA) currently estimates Non-Platino benefit plans would need to reduce supplemental benefits (i.e., coverage beyond FFS coverage levels) in excess of 30% in order to offset the 2016 rate cuts across total Platino and non-Platino membership after incorporating the impact of the Affordable Care Act (ACA) Health Insurance Provider's Fee. This decrease in benefits would be apocalyptic for beneficiaries.

Since 2012, MMAPA and a contingent of Puerto Rico healthcare stakeholders have actively communicated our concerns that the full implementation of the ACA's MA rate reductions, fee increases and sequestration would put the MA coverage for a large majority of Puerto Ricans at risk. Unfortunately, these efforts have repeatedly fallen upon deaf ears at CMS, HHS and the Administration, and as a result, Puerto Rico's MA funding has been cumulatively reduced by more than 30% since 2011 (e.g. 2016 MA rates are the lowest in the United States, approximately 38% lower than the United States average benchmark) and the crisis MMAPA predicted is now upon us. Given these unfortunate realities, we expect MMAPA's member plans to continue seeking options as they work through the 2016 bid process. However, the submission of final bids is not necessary for us to inform you that affordable coverage of quality medical care for Medicare beneficiaries in Puerto Rico, who overwhelmingly rely upon MA plans for such coverage, is in jeopardy. This is the direct result of the 2016 Call Letter's discriminatory MA rate cuts to Puerto Rico and the cumulative negative impact that the ACA and CMS policy decisions have had on the Puerto Rico MA program over the past five years.

Most recently, we were informed by Resident Commissioner Pierluisi that CMS Deputy Administrator Sean Cavanaugh has indicated CMS will not complete its analysis of the potentially material CMS FFS dual mix adjustment until June 2015. The CMS timing to complete this analysis is coincidentally right after the June 1 deadline for the submission of the MA bids for the 2016 products, which leads us to question whether this decision is intended to delay appropriate corrective action, given that MMAPA's analysis (prepared without the benefit of CMS' vast data warehouse) took its consultants less than three weeks from proof of concept to data validation. Delaying the results until after the bid deadline makes any relevant CMS action to alleviate the situation for 2016 even more difficult.

Even accounting for CMS' understandable need to perform a thorough validation to support a public release and defense of its analysis, two months for the entity that produces, owns and works with the data year round seems inappropriately long given the circumstances. Surely, CMS understands by now the urgency and criticality of this analysis after numerous attempts and communications we and our member plans have made to the leaders of CMS and HHS, both directly and through our congressional and other advocates, about the severely damaging impact that the 2016 rate cuts would have on the MA plans' ability to continue to provide coverage to Puerto Rican seniors. As has been offered to CMS previously regarding the FFS dual mix analysis, we once again offer the services of our actuaries and other subject matter experts to facilitate and expedite the analysis of this issue by CMS in whatever way we can. Madam Secretary, we ask for your intervention on this FFS dual mix analysis currently under review by CMS in order for its outcome to be considered in the 2016 MA bids due June 1, 2015.

In addition, Marilyn Tavenner, former CMS Administrator under your leadership, personally sent communications to the United States territories on July 16, 2014 clarifying the non-applicability of certain provisions of the ACA as they relate to United States territories versus "states". We have provided legal briefings as to the extension of the logic set forth in your Administration's letter and the resulting non-applicability of the Health Insurance Provider's Fee provisions to Territories, but have received no assistance from HHS in our quest to ask the United States Treasury Department to provide for transitional

relief and suspend implementation of this Fee to Puerto Rico. Madam Secretary, we ask for your intervention with the United States Treasury Department on the requested suspension of the Health Insurance Provider's Fee as it relates to United States territories before the 2015 appeal deadline of July 15, 2015.

As you may recall, President Obama promised in 2008 that the exclusion of the Part D Low Income Subsidy for Territories be eliminated during his Administration, with no action to date. Not only has the Administration made no attempt in 8 years to make the proposal to Congress, but also we obtained no response from CMS about fixes for the compounding impact that the lack of this benefit creates on medication adherence measures, STAR ratings, and therefore the capacity of plans on Puerto Rico to get the 5% bonus in MA payments. After years of documentation about this situation, all we received on April 6th was "we will consider them as we continue to look at these measurement concepts." How many years does the Administration need to act on its own promises?

Madam Secretary Burwell, we urge you to take control of this situation and help us avoid a human-made crisis in the healthcare system in Puerto Rico. Your leadership at HHS/CMS is needed in order to facilitate the completion of the dual mix analysis, intervention with the Treasury regarding suspension of the Health Provider's Fee and explore any other viable solutions presented to your staff, or identified by CMS or HHS staff, to mitigate the continuing reductions and increasing disparity in 2016 MA payments for Medicare beneficiaries that reside in Puerto Rico. We stand ready to meet with you immediately and assist you in any way possible on behalf of the entire healthcare system of Puerto Rico and its beneficiaries.

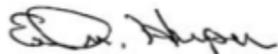
Sincerely,



James P. O'Drobinak
President of MMAPA
CEO of MCS



Dr. Richard Shinto
MMAPA Board Member
CEO of MMM Healthcare



Earl Harper
MMAPA Board Member
President, Humana Health Plans of PR

Cc/ Andrew Slavitt, Acting CMS Administrator
Sean Cavanaugh, Director of the Center for Medicare, CMS Deputy Administrator
Governor Alejandro Garcia Padilla
Resident Commissioner Pedro Pierluisi