

**A Letter From The Puerto Rico Healthcare Community
To The PROMESA Economic Development Task Force Members**

July 29, 2016

The Honorable Orrin Hatch
U.S. Senator
104 Hart Office Building
Washington, DC 20510

The Honorable Bill Nelson
U.S. Senator
716 Senate Hart Office Building
Washington, DC 20510

The Honorable Marco Rubio
U.S. Senator
284 Russell Senate Office Building
Washington DC, 20510

The Honorable Bob Menendez
U.S. Senator
528 Senate Hart Office Building
Washington, D.C. 20510

The Honorable Sean Duffy
U.S. Congressman
1208 Longworth HOB
Washington, DC 20515

The Honorable Nydia M. Velázquez
U.S. Congresswoman
2302 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom MacArthur
U.S. Congressman
506 Cannon House Office Building
Washington, DC 20515

The Honorable Pedro Pierluisi
U.S. Congressman
2410 Rayburn HOB
Washington, DC 20515

Dear Members of Congress and the PROMESA Economic Development Task Force:

On behalf of the health care community in Puerto Rico, we are writing to offer our support and assistance to you as a member of the Congressional Task Force on Economic Development in Puerto Rico (the “Task Force”) formed pursuant to the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”). PROMESA specifically mandated the Task Force to examine the Island’s health care system, including “equitable access to Federal health care programs.”

The importance of the health care sector to the Puerto Rican economy and its 3.4 million U.S. citizens cannot be overstated. We appreciate your interest and your willingness to engage on issues of vital importance to the U.S. citizens living in the Commonwealth. We believe that any long term solutions to Puerto Rico’s fiscal crisis must include equitable treatment in Medicaid, Medicare, and other health care laws.

Background. The health care sector is a vitally important component of the Puerto Rican economy, and the 85,000 Puerto Ricans working in health care-related fields. Notably, the segment is also underfunded when compared to all the jurisdictions within the US healthcare system. Total resources average \$3,400 per capita compared to the national average of \$10,000. This difference

is naturally of great concern, but also illustrates a clear context where the most cost-effective healthcare will still be provided even after assuming any potential funding increases. The Commonwealth is heavily reliant on federally sponsored health care programs: at least 60 percent of the island's population is enrolled in Medicare or Medicaid. The Island has more Medicare beneficiaries than 25 states, of whom 45 percent are low income, and has the 12th largest Medicaid program in the country. To break it down, there are 1.4 million Puerto Ricans enrolled in Medicaid, 570,000 in Medicare Advantage, and 280,000 who are dually eligible for Medicare and Medicaid. As detailed below, the Puerto Rican health care system is in crisis. Resolving its many problems is absolutely critical to addressing the Island's overall economy.

Migration and Cost Indexes. Dramatic pay disparities are motivating doctors and other health care professionals to leave Puerto Rico, moving to Florida and elsewhere in the United States. For example, a family or general practitioner practicing on the mainland earns an average of \$197,090 per year. In Puerto Rico, that same physician would earn \$73,300. As a result, Puerto Rico is losing an average of one physician per day. Consequently, US citizens residing in Puerto Rico are losing access to both primary care physicians and specialists throughout the island and hospitals closing their doors.

Doctors and health care professionals are not the only ones choosing to migrate off the island. The Commonwealth's economic instability is contributing to the decision of many Puerto Ricans to seek employment opportunities on the mainland. Puerto Rico is the poorest jurisdiction in the United States, as measured by median income, and over the past five years, more than 350,000 Puerto Ricans have moved to the mainland in what is now being reference among scholars as the *Second Great Migration*.

Migration has the effect of increasing overall health care spending for the Medicare and Medicaid programs. According to the American Community Survey conducted by the US Census Bureau (2010-2014), the average annual health care cost for a Medicare beneficiary living in Puerto Rico is \$5,856; when that beneficiary moves to the mainland, the nationwide average is \$9,636. Average annual Medicaid spending in Puerto Rico is \$1,980¹; the national average is \$6,060. This disconnection is particularly striking given that many of the core components of health care spending are more expensive in Puerto Rico than on the mainland. The cost of prescription drugs, equipment, supplies, electricity and other non-labor costs are all at or above national average levels. The cost of living in Puerto Rico is approximately 15 percent higher than in the mainland and yet the only way to manage program underfunding is to keep labor costs low. This anomaly creates a vicious cycle that suppresses the compensation of professional work in federal payment calculations.

Migration also reduces the size of the labor workforce and the available tax base, which in turn aggravates the fiscal situation of the government. The *status quo* is producing a dangerous spiral which undermines the financial stability of the island's broader economy. In addition, migration to the mainland results in an increase in government spending by the host states as an increased population base requires increases in education, health care and other government services.

¹ Based on the Puerto Rico Government's Health Insurance Plan figures.

Disparities. Our concerns are not limited to pricing disparities; we also need to ensure appropriate access. Differences in program design and operation have resulted in very different health care outcomes. For example, our review of the Medicare STARS quality measures performance in recent years point to lower ratings in Puerto Rico, which can be tied to the lack of benefits levels that are available to similarly situated individuals elsewhere. Another reflection of the distinct scenario is the increasing prevalence of high utilizers with multiple complex health and social conditions, as identified by the Government's Health Insurance Plan (GHIP) program. Puerto Rico also faces the highest prevalence of several chronic conditions, including hypertension, diabetes, asthma, and depression.

Systemic Challenges. While familiar programs such as Medicare, Medicaid, and certain provisions of the Affordable Care Act (ACA) exist in Puerto Rico, they operate under different rules than those that apply to the rest of the country. Those differences serve to perpetuate disparities and contribute to economic destabilization on the island. We urge the Task Force to examine these systemic challenges as part of its work and to propose reforms that will bring stability and predictability to Puerto Rico's health care delivery system and, consequently, to the Island's broader economy.

Medicare. Puerto Rico has been included in the Medicare program since its inception. However, a number of key differences exist in the way the program is applied in Puerto Rico compared to the rest of the country. These differences result in lower provider payments and reduced benefits for beneficiaries. For example, no one living in Puerto Rico is eligible for the Supplemental Security Income program (SSI). Because SSI eligibility is used as a proxy indicator for particular payment formulas, Puerto Rico has lost hundreds of millions of dollars in funding over the years in the Medicare Disproportionate Share Hospital (DSH) program, which does apply to the island, according to the statute. Beneficiaries residing in Puerto Rico are also excluded from the Part D Low-Income Subsidy (LIS) program, which has limited access to prescription drugs for hundreds of thousands of beneficiaries. This leads to reduced medication adherence, which results in costlier health care services down the road.

Although individuals living in Puerto Rico pay the same Medicare payroll taxes as all other Americans, they are not automatically enrolled in Part B like individuals elsewhere and can face a late enrollment penalty. Even when Puerto Ricans are enrolled in Medicare successfully, their access to traditional fee-for-service benefits is hindered by differing hospital payment policies, especially the wage index. For example, analysis performed by the respected actuaries at Milliman shows that Medicare inpatient hospital payments in Puerto Rico are 53 percent of the National average.

At the National level, Medicare Advantage benchmark payments for 2017 average \$826 per member per month. In Puerto Rico, the benchmark will average \$473, which is 43 percent below the national average. The fee-for-service formula used to establish the Medicare Advantage benchmark in Puerto Rico is not representative of actual program costs for a number of technical and enrollment-related reasons, and the payment disparity is particularly problematic given the high level of program participation in Puerto Rico. While the national average enrollment in Medicare Advantage hovers around 30 percent, 75 percent of the island's Medicare beneficiaries choose to enroll in Medicare Advantage. We strongly question the alignment with policy and the

actuarial soundness of setting payment rates for 90 percent of the population based on the health care needs of the 10 percent of Medicare A and B beneficiaries that have chosen to remain in fee-for-service Medicare.

Medicaid. From its inception, Medicaid has operated differently in Puerto Rico than in the rest of the United States. Rather than the traditional matching program that exists elsewhere, Puerto Rico operates under a fixed dollar cap for federal funds assigned to the implementation of the Medicaid program in Puerto Rico. Until the passage of the ACA, which included a special supplemental Medicaid allotment for Puerto Rico, the effective federal Medicaid match rate in Puerto Rico was less than 20 percent, compared to a national average of 55 percent. Decades of Medicaid underfunding contributed significantly to Puerto Rico's financial crisis because the government was forced to issue bonds to raise funds to meet their Medicaid program obligations.

The ACA's special allocation for Puerto Rico's Medicaid program provided a welcoming short-term relief, but that allocation is expected to expire very soon, by the end of 2017 or sooner. At that point, the federal contribution to the island's Medicaid program would be reduced by nearly 75 percent, reverting back to an annual level of approximately \$400 million. That fall off the "cliff" will have a devastating effect on health care delivery, the fiscal situation of the Government, and the Puerto Rico economy as a whole. Indeed, there are already signs of instability in Medicaid access in Puerto Rico, with the Commonwealth making weekly payments to health plans to manage tight cash flow. In April, the Commonwealth missed making required payments for the first time. If Puerto Rico does not put up its portion of the required Medicaid funding, federal matching funds cannot be drawn down.

Medicare Platino. Platino is Puerto Rico's integrated Medicare-Medicaid program for individuals who are dually eligible. Platino relies mainly on the Medicare Advantage program platform to provide coordinated and comprehensive services. The program serves as a model for the level of integrated care delivery low-income seniors need and deserve, not only for Puerto Rico, but for the rest of the Nation. However, the continuing reductions in Medicare Advantage benchmarks, coupled with the imminent Medicaid funding cliff, places the continued operation of Platino very much in jeopardy. If Medicare Advantage rate reductions continue and the Platino program is no longer viable, the cost of care of those individuals currently enrolled would shift to Medicaid, resulting in an additional annual cost to the government of Puerto Rico of approximately \$800 million. This cost could not be met under current circumstances.

ACA and the HIT. The ACA does not apply in Puerto Rico in the same way it applies elsewhere. In 2014, the Department of Health and Human Services ("HHS") determined that the Title 1 insurance reforms do not apply in Puerto Rico. Likewise, there is no health insurance marketplace in Puerto Rico. There are no subsidies for the island. There is no individual mandate to purchase health insurance, and no Medicaid expansion funding from 100% to 133% to Puerto Rico as applicable to states. However, the Health Insurance Tax ("HIT") is still being applied to plans operating in Puerto Rico. The 2016 HIT tax amounts to an approximately \$200 million obligation on Puerto Rico's Government, its health plans and its citizens. We have presented this incongruence to the Administration and to Congress in multiple occasions. Because Puerto Rico does not benefit from the positive aspects of subsidy access, and the resulting market expansions, it should not be asked to finance the marketplace structure.

Zika. The Zika virus poses a clear and present danger in Puerto Rico. According to the Center for Disease Control (“CDC”), as many as 50 pregnant women in Puerto Rico are becoming infected with Zika each day. As of early July, Puerto Rico has reported nearly 2,400 Zika cases, 44 hospitalizations, 16 cases of Guillain-Barre paralysis associated with Zika, and one death. The CDC recently recommended urgent action, citing multiple studies that show the virus is spreading so rapidly on the island that it could infect thousands of vulnerable residents. Puerto Rico needs funding for both prevention and treatment, and we cannot wait. Currently, there are no resources in any sector of our system – Medicaid, Medicare, or commercial insurance – to manage the incremental health care risk of Zika.


The Task Force has an unprecedented opportunity to examine these systemic challenges and recommend permanent solutions. We have attached detailed policy recommendations and analysis related to the problems we face.

Proposals. The attached recommendations serve as immediate steps to provide significant relief and economic stabilization to Puerto Rico in the short term. We urge the Task Force to consider recommending immediate action on these items, but we emphasize that longer term fixes remain vitally important to putting Puerto Rico on a sustainable path toward long term recovery. **The proposal to assure equitable treatment in Medicaid and Medicare is the principal long term solution we request the Task Force to recommend.**

- ***Parity in Medicaid.*** As the Medicaid cliff looms, steps must be taken to continue program operations by establishing parity in Puerto Rico’s Medicaid Federal funds matching levels.
- ***HIT.*** Eliminate the application of the HIT tax to Puerto Rico.
- ***Administrative Flexibility.*** Allow CMS to utilize data proxies, discretions and other flexibilities under federal health care payment methodologies. This is important when unique program distinctions in the Territories make traditional formula application unreliable.
- ***Minimum Medicare Advantage.*** The ACA benchmark reductions are unsustainable in Puerto Rico and should be replaced with a defined minimum benchmark tied to some percentage of the lowest benchmark in the 50 states.
- ***Part D Low-Income Subsidy program.*** End the exclusion of the Territories from the Medicare Part D LIS program.


Thank you for the opportunity to present these views and recommendations. Our group of associations represent multiple key stakeholders involved in our economy, our entire healthcare system, and have actively presented comments and proposals to legislation and regulation individually and as a community, including through the *Puerto Rico Healthcare Crisis Coalition*. We eagerly and enthusiastically look forward to working with you and other members of Congress to address Puerto Rico’s economic and health care crisis.

Sincerely,

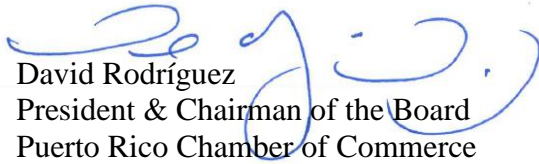


James P. O'Drobinak
President

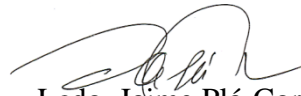
Medicaid & Medicare Advantage Products
Association of Puerto Rico (MMAPA)



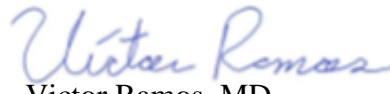
Dennis Rivera
Chairman
Puerto Rico Healthcare Crisis Coalition



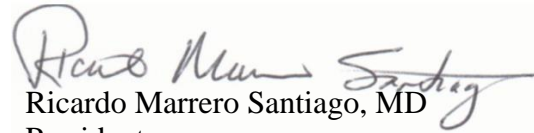
David Rodríguez
President & Chairman of the Board
Puerto Rico Chamber of Commerce



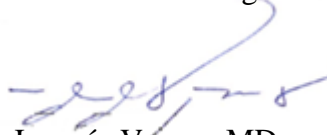
Lcdo. Jaime Plá-Cortés
President
Puerto Rico Hospital Association




Victor Ramos, MD
President
Puerto Rico College of Physicians and Surgeons




Ricardo Marrero Santiago, MD
President
Puerto Rico Medical Association




Joaquín Vargas, MD
President
Puerto Rico IPA Association




Alicia Suárez
Executive Director
Primary Health Association of Puerto Rico



Lcdo. Ramón Alejandro Pabón
President
Puerto Rico College of
Healthcare Services Administrators



Lcda. Idalia Bonilla
President
Puerto Rico Community Pharmacies Association



Elliot Pacheco
Vice-president
Entrepreneurs for Puerto Rico
Former President
Puerto Rico Community Pharmacies Association



Lcdo. Ramón Pérez Blanco
President
Puerto Rico Products Association

Attachments

Recent Background and Analysis Documents

2. *Paper*. Historic Context of Medicare & Medicaid in Puerto Rico, MMAPA, 11/30/15
3. *Presentation*. Puerto Rico Healthcare, Economy and Medicaid, July 2016, Laborde, PhD
4. *Written statement*, hearing on “Financial and Economic Challenges Facing Puerto Rico” by U.S. Senate Finance Committee; Signed by 8 community associations, September 2015
5. *Explanatory Notes and Draft Legislative Language**
 - Continuing Medicaid Program operations establishing parity in Puerto Rico’s matching levels
 - Eliminate the Incongruent Applicability of the HIT in Territories
 - Administrative Flexibility Language
 - Defining a Reasonable Minimum level of Resources under Medicare Advantage
 - Eliminating the Exclusion of the Part D Low Income Subsidy for Citizens in the Territories

**We submit these proposals to the Task Force as suggestions for long and short-term policy, but fully acknowledge the need to offset any costs associated with them under applicable budgetary rules. We stand ready to work with the Task Force and, ultimately, the Congressional committees of jurisdiction in finding necessary and appropriate funding for the proposals.*