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Latest Medicaid Funding Cliff Highlights Need for Funding Parity for U.S. Territories

Testimony of Judith Solomon, Senior Fellow, Center on Budget and Policy Priorities, Before the House Committee on Natural Resources

Chairman Grijalva, Vice Chair Sablan, Ranking Member Westerman, and members of the Natural Resources Committee, thank you for today's opportunity to testify on Medicaid in the territories. My name is Judith Solomon. I am a Senior Fellow on the health team at the Center on Budget and Policy Priorities, a nonprofit, nonpartisan policy institute located in Washington, D.C. The Center conducts research and analysis on a range of federal and state policy issues affecting low- and moderate-income families. The Center's health work focuses on Medicaid, the Children's Health Insurance Program, the Affordable Care Act, and Medicare. I have spent over 40 years working on Medicaid, beginning as a legal services attorney and in several positions focusing on Medicaid policy issues affecting children, seniors, and people with disabilities.

Residents of the territories are U.S. citizens or, in the case of American Samoa, U.S. nationals; yet federal law treats them far less favorably than residents of the states when it comes to their Medicaid coverage — even though they are more likely than residents of the states to rely on Medicaid for their health care.

- States receive open-ended federal funds that match a specified percentage of their expenditures for Medicaid-covered health services provided to enrollees. This means funds are available when need increases due to a recession, pandemic, or natural disaster. The territories, in contrast, receive only fixed block grant funding each year, which does not come close to covering the costs of health care for their Medicaid enrollees and puts territories at even greater risk when need increases. Once the block grant funding is exhausted, the territories are expected to pay the entire remaining cost of Medicaid health care services using their own funds, which is untenable given their already stretched financial resources.
- In the states, the percentage of Medicaid costs that the federal government covers is based on a state's per capita income relative to the nation as a whole. But the territories draw down their federal block grant funds at a matching rate set in statute at 55 percent — well below what the rate would be if based on the territories' per capita incomes. (In fact, most of the territories would qualify for an 83 percent matching rate, the maximum allowable under Medicaid.) And since the territories' block grant funding is so small, there are periods of the year when *no* federal matching funds are available because the block grant has been exhausted.

In some cases, the territories have been unable to draw down their block grants because they lacked the necessary matching funds.[1]

- The territories aren't subject to the same eligibility and benefit standards as state programs, in large part because they aren't given the financial resources to meet these standards. They are allowed to set their own eligibility standards that aren't based on the federal poverty line, and most of the territories have eligibility thresholds lower than those in the states. Not all the territories cover all the health services that the states must cover. For example, Puerto Rico doesn't cover care in nursing homes, home health services, non-emergency medical transportation, or the full range of benefits for children that are guaranteed by Medicaid's Early and Periodic Screening, Diagnostic, and Treatment benefit. The Commonwealth of the Northern Mariana Islands (CNMI) and American Samoa have statutory waiver authority that allows the Centers for Medicare & Medicaid Services to waive most Medicaid requirements that would otherwise apply.[2]

Since 2010 Congress has provided time-limited tranches of supplemental funding to allow the territories to keep their programs going. Without these funds, the territories would have had to deeply cut provider rates, eligibility, and benefits because their block grant funds fall far short of meeting the needs of their residents. But these temporary fixes have not allowed the territories to improve their programs or provide coverage and benefits equal to the states, and they have left territory residents without a stable source of health care.

Without a permanent solution that provides stable, adequate funding, the cycle of Medicaid funding cliffs will continue, repeatedly forcing the territories to make contingency plans for deep cuts in coverage and benefits and blocking permanent improvements to the territories' Medicaid programs that would provide parity with programs in the states. President Biden's 2022 budget called for parity: "eliminating Medicaid funding caps for Puerto Rico and other Territories while aligning their matching rate with States." Forthcoming action on the President's economic recovery package provides a unique, likely one-time opportunity to provide the funding needed to transform the financing structure of the territories' Medicaid programs, which would increase access to health care for territory residents and achieve parity with the states.

Block Grants Fall Far Short of Territories' Need

The capped allotments of federal Medicaid funds set in statute fall far short of what the territories need to operate their Medicaid programs, creating the need for repeated short-term legislative fixes. Congress most recently provided the territories with increased block grant funding and matching rates for fiscal years 2020 and 2021. Puerto Rico's matching rate was set at 76 percent over this period, and the other territories at the statutory maximum 83 percent.[3] The funding was accompanied by various requirements specific to the territories. For example, American Samoa, CNMI, and Guam must demonstrate progress toward reporting data to CMS' Transformed

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[1] Judith Solomon, "Pacific Island Territories Need Disaster Relief Funding for Medicaid," Center on Budget and Policy Priorities, April 1, 2019, https://www.cbpp.org/blog/pacific-island-territories-need-disaster-relief-funding-for-medicaid.

[2] Section 1902(j) of the Social Security Act.

[3] Under the 2020 Families First Coronavirus Response Act, all territories (as well as the states) also receive a 6.2 percentage-point increase in their Medicaid matching rates for the duration of the public health emergency.

Medicaid Statistical Information System and toward establishing a Medicaid fraud control unit, while Puerto Rico must develop a plan to participate in Medicaid's Payment Error Rate Measurement System and a plan for contracting reform.

With this two-year funding coming to an end, another cliff is fast approaching on September 30. The Medicaid and CHIP Payment and Access Commission estimates that the territories have enough funding to cover their expenses through September 30, but they will experience significant funding shortfalls in fiscal year 2022 unless Congress acts.[4] If Congress doesn't act by the deadline, the territories will revert to their statutory block grants and matching rates. American Samoa's allotment would go from $85.6 million in 2021 to $13 million in 2022, CNMI's from $62.3 million to $7.2 million, Guam's from $130 million to $19 million, Puerto Rico's from $2.8 billion to $392 million, and the U.S. Virgin Islands' from $127.9 million to $19.6 million.[5] All the territories would revert to a 55 percent matching rate.[6] The territories don't have the financial resources to pick up the difference, so they likely would have to respond with draconian cuts in eligibility, benefits, and provider reimbursement rates.

A bipartisan bill that the Energy and Commerce Committee approved on July 21 would provide yet another temporary solution to the territories' Medicaid shortfalls, albeit for a longer period than recent fixes.[7] Puerto Rico would receive five years of supplemental funding (through fiscal year 2026) with a 76 percent matching rate; the other territories would receive eight years of funding (through fiscal year 2029) with an 83 percent matching rate. The territories would still be subject to fixed annual block grant funding. The block grants for fiscal year 2022 would be the same amount that the territories received in 2021. The block grants for subsequent years would be flat and set at amounts *below* the funding provided in 2022. For example, the U.S. Virgin Islands would receive $127.9 million in 2022 and $126 million in 2023 through 2029. CNMI would receive $62.3 million in 2022 and $60 million for 2023 through 2029.

Flat funding set at amounts below what the territories now receive, without adjustment for inflation or increased needs, presents a risk that the block grants may be insufficient to sustain the territories' Medicaid programs over the five- or eight-year period covered by the bill. The risk is especially great if the pandemic continues or the territories experience natural disasters such as hurricanes, cyclones, or typhoons — all events that have hit the territories hard in recent years. These disasters made it difficult for some of the territories to provide the match needed to draw

[4] Statement of Anne L. Schwartz, Executive Director, Medicaid and CHIP Payment and Access Commission, Health Subcommittee of the Committee on Energy and Commerce, March 17, 2021, https://www.macpac.gov/wp-content/uploads/2021/03/Testimony-Medicaid-and-CHIP-in-the-U.S.-Territories.pdf.

[5] *Ibid.*

[6] Kacey Buderi, "Panel Discussion: Current and Future Issues Facing the Territories," Medicaid and CHIP Payment and Access Commission, March 4, 2021, https://www.macpac.gov/wp-content/uploads/2021/03/Panel-Discussion-Current-and-Future-Issues-Facing-the-Territories.pdf.

[7] H.R. 4406, the "Supporting Medicaid in the U.S. Territories Act of 2021," https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/BILLS-117hr4406ih_0.pdf,

down federal funds, even when their matching rates were temporarily set above the 55 percent statutory level.[8]

The importance of open-ended federal funding can't be overstated. Without it, Medicaid programs can't respond to an increase in need during recessions, pandemics, and natural disasters. Nor can Medicaid innovate or enhance provider reimburse rates to ensure access to care; instead, the program must keep eligibility and benefits below what's needed, and below what residents of the states receive.

Puerto Rico's Experience Shows Shortcomings of Temporary Solutions

Puerto Rico provides a good example of how short-term funding solutions don't provide the stable, adequate funding needed to provide Medicaid coverage on the same terms as state programs. Puerto Rico uses a local poverty level (the Puerto Rico Poverty Level or PRPL) in establishing its Medicaid eligibility threshold, which is considerably below federal poverty levels. Puerto Rico covers most groups with incomes up to 138 percent of the PRPL, which is about 60 percent of the federal poverty line ($7,650 a year) for an individual and 45 percent for a family of four ($11,800 a year).[9]

Effective November 15, 2020, Puerto Rico raised the PRPL, which increased the Medicaid eligibility threshold to about $15,000 a year for an individual and $30,700 for a family of four.[10] This opened the program to 150,000 to 200,000 more people.[11] However, the increase in the eligibility thresholds is set to expire on September 30, 2021, with the end of the current two-year increases in Puerto Rico's block grant and matching rate. Because Puerto Rico is also receiving a 6.2 percentage point increase in its matching rate during the public health emergency (PHE), it is subject to a maintenance-of-effort requirement preventing it from terminating people's eligibility based on the lower thresholds before the end of the PHE. But Puerto Rico will be free to determine eligibility for new applicants based on the lower thresholds.

The additional funding Puerto Rico received in 2020 and 2021 also allowed it to increase payments to physicians and hospitals, which fall well short of payments to Medicaid providers in the states. But these increases, too, were temporary and are set to expire at the end of September. Low reimbursement rates contribute to a shortage of health care providers on the island.[12]

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[8] Solomon, *op. cit.*

[9] Edwin Park, "How States Would Fare Under Medicaid Block Grants or Per Capita Caps: Lessons from Puerto Rico," Commonwealth Fund, January 6, 2021, https://www.commonwealthfund.org/publications/issue-briefs/2021/jan/how-states-fare-medicaid-block-grants-per-capita-caps-puerto-rico.

[10] Puerto Rico state plan amendment PR 20-0011, Centers for Medicare & Medicaid Services, December 11, 2020, https://www.medicaid.gov/Medicaid/spa/downloads/PR-20-0011.pdf.

[11] Edwin Park, "Critical Bipartisan House Legislation Would Avert Looming Fiscal Cliff for Medicaid Programs in the Territories," Georgetown University Center for Children and Families, July 14, 2021, https://ccf.georgetown.edu/2021/07/14/critical-bipartisan-house-legislation-would-avert-looming-fiscal-cliff-for-medicaid-programs-in-the-territories/.

[12] Judith Solomon, "Puerto Rico's Medicaid Program Needs an Ongoing Commitment of Federal Funds," Center on Budget and Policy Priorities, April 22, 2019, https://www.cbpp.org/research/health/puerto-ricos-medicaid-program-needs-an-ongoing-commitment-of-federal-funds.

Parity Requires Stable, Adequate Funding

If the territories continue to face funding cliffs and to operate under a block grant structure, they can't ensure that their residents have ongoing access to the full range of health care they need. Reaching parity with state programs requires increasing eligibility, benefits, and provider reimbursement, which is not possible with inadequate block grants — even when supplemented by temporary increases.

Thus, while it's critical to address the cliff that the territories face on September 30, it's also critical to begin moving to a permanent solution that would abolish the block grants and inadequate statutory matching rate and provide the territories with the open-ended funding they need to meet the needs of their residents in the same way as if they lived in the states. Forthcoming action on the President's economic recovery package provides an opportunity to do just that, in line with President Biden's budget proposal.