



GOVERNMENT OF PUERTO RICO

Federal Affairs Administration

Memo

From: Martin E. Rivera

To: Jennifer Storipan

Re: H.R. 1865 and Medicaid Funding for Puerto Rico

Date: 12/17/2019

This memo is to serve as a brief summary of the of the final Medicaid funding package for Puerto Rico.

Background:

- On December 16, 2019, the U.S. Congress came to a bipartisan agreement on 12 appropriation packages.
- The Medicaid funding for Puerto Rico and the other U.S. territories was included in H.R. 1865, National Law Enforcement Museum Commemorative Coin Act [Further Consolidated Appropriations Act, 2020].
 - The legislative language can be found in DIVISION N—HEALTH AND HUMAN SERVICES EXTENDERS TITLE I—HEALTH AND HUMAN SERVICES EXTENDERS, Subtitle B—Medicaid Provisions, Section 202.
- On December 17, 2019, the House passed the H.R. 1865 with a vote of 297-120.

Summary of Bipartisan Proposal by Senate Finance Committee:

- **Temporary Treatment of Cap under Section 1108 of the Social Security Act:**
 - **Puerto Rico: \$5,742,260,000** Billion (2 years):
 - FY 2020, \$2,623,188,000; and
 - FY 2021, \$2,719,072,000.
 - Total of **\$5,342,260,000** subject to an annual increase of \$200,000,000 million for years FY 2020 -2021, if the Secretary certifies that Puerto Rico establishes a reimbursement floor, implemented through a directed payment arrangement plan, for physician services covered under Medicare Part B at a rate not less than 70%.
 - Current Section 1108(g) caps for FY 2020, if the bipartisan agreement is not enacted:
 - Puerto Rico – \$375,100,000 Million (FY 2020)
- **Federal Matching Assistance Percentage (FMAP) for Puerto Rico:**
 - Puerto Rico's FMAP would be **76 %** for FY 2020-2021. (December 21, 2019 -September 30, 2021)

Program Integrity Measures:

- **Program Integrity Lead**
 - Not later than 6 months after enactment, agency administering Puerto Rico's Medicaid program (Puerto Rico's Department of Health/PRDOH) shall designate an officer as the Program Integrity Lead.



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- **Payment Error Rate Measurement (PERM) Requirement**
 - Not Later than 18 months after the date of enactment, Puerto Rico shall publish a plan, developed in coordination with and approved by the Administrator for Centers for Medicare & Medicaid Services (CMS), on how Puerto Rico will develop measures to satisfy PERM requirements.
 - It shall include annual benchmarks and scheduled audits for such compliance.
- **Contracting Reform**
 - Not later than 12 months after enactment, Puerto Rico shall publish a contracting reform plan to:
 - Combat fraudulent, wasteful, or abusive contracts;
 - Include metrics for evaluation; and
 - Include a schedule for publicly releasing status reports.
- **Medicaid Eligibility Quality Control (MEQC)**
 - Not later than 18 months after enactment, Puerto Rico shall publish a plan, in coordination with CMS, for how Puerto Rico shall comply with MEQC.
- **FMAP Reduction for Failure to Meet Additional Requirements**
 - For fiscal quarters for the period of January 1, 2020, and ending on September 30, 2021, if Puerto Rico fails to meet additional requirements (Program integrity lead, PERM, contracting reform, and MEQC), FMAP shall be reduced .25 percent for every fiscal quarter, but it shall not exceed 2.5 percent.
 - [\[If the FMAP is reduced and Puerto Rico works its way towards meeting the requirements, the FMAP will be restored to 76 percent in the following quarter.\]](#)
- **Exception for Extenuating Circumstances or Reasonable Progress**
 - Puerto Rico shall be deemed to have satisfied requirements or complied with the terms of a plan for a fiscal quarter if:
 - The Secretary approves an application from Puerto Rico describing extenuating circumstances that prevented Puerto Rico from satisfying or complying with the terms of the plan; or
 - Puerto Rico has made objectively reasonable progress towards satisfying such terms and has submitted a timely request for an exception to the Secretary.
- **Treatment of Funding Under Enhanced Allotment Program (EAP)**
 - Treatment of funding for Certain Years:
 - If Puerto Rico establishes a plan submitted to the Secretary regarding medical assistance with Part D drugs, for FY 2020-2021, the amount specified for the increased amount for such year shall be taken into account for cap allotments under Section 1108.
 - [\[The total cap allotments cited in the bill are inclusive of EAP Funds.\]](#)
- **Annual Reports**
 - Not later than 30 days after the end of each fiscal year (FY 2020 and ending in FY 2021), due to the increased Section 1108 cap allotment and FMAP, Puerto Rico (and all other territories) shall submit to the Chair and Ranking Member of the House Energy and Commerce (E&C) Committee and the Senate Committee on Finance, a report describing how Medicaid cap increase or increased FMAP has been used. Report may include:



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- Increased payments to health care providers
 - Increased covered benefits
 - Expanded health care provider networks; or
 - Improved in any other manner the carrying out of such plan (or waiver); and
 - Any other information determined as necessary by such territory.
- **Additional Program Integrity Requirements**
 - Report on Contracting Oversight and Approval
 - Not Later than 1 year after enactment, the Comptroller General (CG) shall issue, and submit to the Chair and Ranking Member of the House E&C Committee and the Senate Committee on Finance, a report on contracting oversight and approval of State plan. The report shall:
 - Examine the process used by Puerto Rico to evaluate bids and award contract;
 - Examine which contracts are not subject to competitive bidding or request for proposals;
 - Examine oversight by CMS of awarded contracts under the plan.
 - Include any recommendations for Congress, the Secretary, or Puerto Rico relating to the changes that the CG determines necessary to improve program integrity of the plan.
 - **Audits of Managed Care Payments**
 - Not later than 1 year after enactment, IG shall develop and submit to Congress:
 - Report identifying payments to managed care organizations (MCO), the IG determines to be at high risk for waste, fraud, and abuse; and
 - Plan for auditing and investigating such payments.
 - **System for Tracking Federal Funding Provided to Puerto Rico; Medicaid and CHIP Scorecard Reporting**
 - Program Integrity Requirements for Tracking Federal Funding Provided to Puerto Rico:
 - Puerto Rico shall establish and maintain a system, which may include the use of a quarterly Form CMS-64, for tracking amounts paid by the federal government to Puerto Rico for the State plan, including that:
 - Puerto Rico shall ensure that information is available, with respect to each quarter in a FY (with the first quarter beginning on or after the date that is 1 year after enactment), about the following:
 - Total amount expended by Puerto Rico during any previous quarter of such FY;
 - Description of how such amount was so expended.
 - The total amount Puerto Rico expects to expend during the quarter under the State plan, and a description of how Puerto Rico expects to expend such amount.
 - Reports to CMS
 - For each quarter that Puerto Rico is required to ensure information about the tracking system, Puerto Rico shall submit to the administrator of CMS a report on such information for such quarter, which may include the submission of a quarterly Form CMS-37.
 - **Submission of Documentation on Contracts Upon Request**
 - Puerto Rico shall upon request submit to CMS all documentation requested with respect to contracts awarded under the State plan.



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- **Reporting on Medicaid and CHIP Scorecard Measures**
 - 12 months after enactment, Puerto Rico shall begin to report to CMS on selected measures included in the Medicaid and CHIP Scorecard developed by CMS.
- **Appropriation**
 - Appropriated to HHS \$5,000,000 million for each FYs 2020-2021 to carry out measures.