

Statement for the Record

Governor Anibal Acevedo-Vilá  
Commonwealth of Puerto Rico

For the  
Senate Finance Committee  
Wednesday, June 15, 2005  
Hearing on

**The Future of Medicaid: Strategies for Strengthening  
American's Vital Safety Net**

*“The federal Medicaid partnership with U.S. commonwealths and territories has become increasingly unbalanced over a period of years.... The imbalance affects quality of care issues and creates increased financial stress. Medicaid reform needs to include a review of the current relationship and the development of a pathway that moves to a rebalancing of this partnership.”*

National Governor's Association  
*Policy Position*  
EC-16. Medicaid Reform Policy

The National Governors Association Policy Position EC-16 recognizes the imbalance that has developed over a period of years in regard to the Federal Medicaid partnership, the Commonwealth of Puerto Rico and the U.S. territories.

I would like to take this opportunity to add my support to the NGA policy and to put forward interim steps that begin to address this imbalance.

In 1968, three years after the start of the Medicaid program, Congress established a \$20 million limit on the level of federal Medicaid that would be available to the Commonwealth of Puerto Rico. At that time Federal Medicaid costs, nationally, totaled \$1.1 billion. The Commonwealth matching assistance percentage (FMAP) continued at the 50 percent level; however, the Federal cap meant that there was no reimbursement for expenses to Puerto Rico once the Commonwealth expended \$40 million. From time to time, Congress has raised the cap, but has never reviewed the cap in terms of healthcare or fiscal policy.

Currently, the Commonwealth of Puerto Rico's effective FMAP rate approximates 18 percent. If the 1968 cap had been authorized to grow at the same rate as Medicaid grew nationally, Federal support for Medicaid in Puerto Rico would now approximate \$1.7 billion, as opposed to the current Federal support of \$219 million. In the states, federal Medicaid support approximates \$330 per month per participant as compared to federal support in Puerto Rico of about \$20 per month per participant. If Puerto Rico's 1968 Medicaid cap had increased as the Medicaid program increased, nationally, the average monthly Federal contribution would be about \$173 per participant, still a fraction of average Federal support.

These are the challenges the Commonwealth's healthcare community confronts while operating in an economy where the cost of living is no less than many metropolitan areas in the states, and all of the Federal regulatory requirements governing healthcare facilities and providers are the same in Puerto Rico as they are in the states.

As Congress moves forward with its review of Medicaid, I would urge that the Committees consider adhering to four principles in terms of addressing Medicaid in Puerto Rico:

1. It is in the interest of both the Federal Government and the Commonwealth that the existing healthcare gap between the Island and the states does not grow any greater, and that measures need to be taken to narrow this gap.
2. Federally mandated expenses resulting from Federal consent decrees and U.S. Justice Department enforcement actions should be reimbursed outside of the cap.
3. Critical healthcare needs, particularly for children, persons with disabilities and the frail elderly, need to be considered as strategic healthcare investments, with the Federal contribution coming outside of the cap.
4. The Federal investment in Puerto Rico's healthcare must be safeguarded and efforts and initiatives, particularly in technology, that can safeguard the Federal investment and make the healthcare system more productive should be encouraged and supported.

In addressing the first principle of not allowing the healthcare gap between the Island and the states to grow any further, I believe that there are three actions which the Committee can take this year that would be meaningful in starting to address the current imbalance:

1. Family Opportunity Act (FOA) (HR1443, S183). The FOA, as drafted, effectively precludes Puerto Rico from participating, as the cap on Medicaid reimbursement will prevent any Federal participation. If Congress enacts FOA this year, it is essential that Puerto Rico be permitted to participate in this program and the New Freedoms Initiatives must be placed outside of the cap, so that families and children with disabilities in Puerto Rico are not left behind.

2. Transitional Medical Assistance (TMA). The Congress requires Puerto Rico to meet all of the same work standards of the Temporary Assistance to Needy Families (TANF), but the Commonwealth is not authorized to participate in TMA. TMA is recognized as one of the most critical elements in the success of moving families from welfare to work. When Congress reauthorizes TANF and TMA, it is essential that Puerto Rico be authorized to participate in and receive reimbursements for TMA so that it is in a stronger position to meet its TANF obligations.

3. Adjustment Factor. From 1998 to 2003, Federal support for Medicaid increased nationally 65 percent while Federal support for Medicaid in Puerto Rico increased 30 percent. The disparity in the growth rate is an issue that must be addressed this year, because each year that it is delayed, there is increasing pressures on the Commonwealth's healthcare system and fiscal strength. I urge the Committee to amend the provisions related to the annual adjustment for the Puerto Rico's Medicaid cap so that the adjustment is no less than the percentage increase in the national Medicaid program. This can be an important step in addressing the overall healthcare gap. It will also be consistent with actions Congress took in regard to the Medicare Modernization Act where the annual adjustment to the Commonwealth's block grant is based upon the annual growth of Medicare Part D.

These three steps start to lay the foundation to address the current imbalance. By including Puerto Rico in the two authorizations and adopting an adjustment policy that reflects changes in the program nationally, Congress will put into practice the principle of not permitting the imbalance of the Commonwealth/Federal Medicaid partnership.

I urge the Committee to consider these proposals as you move forward with budget reconciliation and I am certainly available to work with the Committee to find solutions which start to realign the current imbalance of the Commonwealth Medicaid partnership with the Federal government.

When Congress considers long term comprehensive Medicaid reform, I urge the Committee to examine the issues I raised previously, including:

1. Impact of Consent Decrees. The Commonwealth is under two consent decrees initiated by the US Justice Department requiring the expenditure of funds that are eligible for Medicaid reimbursement, but not eligible for a Federal match in Puerto Rico. My fellow Governors are concerned about the impact of the consent decrees since they are required to pay between 20 and 50 percent of their costs (Federal Medicaid financing the balance). I am particularly concerned as the Commonwealth is not authorized to receive any additional reimbursements for eligible Medicaid costs resulting from the enforcement action of the U.S. Justice Department, and is required to absorb 100 percent of the costs.

2. Critical Needs. Critical healthcare needs, particularly for children, persons with disabilities and the frail elderly must be assessed with consideration given to possible support for strategic healthcare needs investments and should be viewed in the context of Medicaid reform to insure that these vulnerable populations are adequately served. One simple way to begin to take care of these critical needs and to begin to narrow the existing gap would be a new policy that would place the Federal contribution of Medicaid coverage outside of the existing cap for every child born after a date certain. This way, we begin to take care of our children first, and we tackle the existing gap in a slow, but steady fashion.

3. Safeguards and Technology. The Federal investment in Puerto Rico's healthcare must be safeguarded. Efforts and initiatives needed to protect that investment and make it more productive should be encouraged and supported. While technology development has been encouraged in the states with as much as 90 percent reimbursements for improvements, the Commonwealth has not been authorized to receive similar support. The President's initiative on "interoperable health information technology infrastructure" is an opportunity to make great strides in the quality and productivity of the Commonwealth's healthcare system, that can pay

dividends to both the Federal government and Puerto Rico, provided the Commonwealth is authorized to access Medicaid funding for the development of these systems, in a manner similar to the states.

As Congress moves forward with comprehensive Medicaid reform, I encourage the Committee to follow the guidance of the NGA policy where it recommends that Medicaid reform “needs to include a review of the current relationship and the development of a pathway that moves to a rebalancing of this partnership.” The cap established in 1968 is grounded in neither healthcare nor economic policy. The result is an effective FMAP for Puerto Rico of approximately 18 percent, a rate that could not be sustained in any jurisdiction.

The Commonwealth of Puerto Rico has a long history and strong commitment to providing comprehensive healthcare in its communities, and that commitment is not going to change. However, meeting that goal and fulfilling the Federal statutory requirements such as Early and Periodic Screening, Diagnosis and Treatment (EPSDT), and Health Insurance Portability and Protection Act (HIPPA), Federal Court rulings such as *Olmstead* and *Cedar Rapids*, and meeting the Federal regulatory requirements of Health Resources and Services Administration and the Center for Medicare and Medicaid Services without a more balanced Federal partnership creates inordinate financial pressure that has an impact on the type of healthcare provided.

As the Committee moves forward with budget reconciliation I would urge establishment of the principle that the current Commonwealth/Federal Medicaid partnership should not develop any further imbalance, and that this goal can be accomplished by enacting the three proposals I have outlined. Secondly, in terms of comprehensive long term Medicaid reform I urge the Committee to examine the current Commonwealth/Federal Medicaid partnership with the objective of establishing a more balanced partnership, particularly in light of the healthcare needs, consent decrees and opportunities for technological advances.

Working together, sharing ideas, examining the effects of current policy, I believe that we can establish a pathway to rebalancing the Commonwealth/Federal partnership, a pathway that makes economic sense for both the Federal government and the Commonwealth.

