Whereas, Both the Territory of Puerto Rico and the state of Florida are important to the American Medical Association (AMA) and the Southeastern Delegation to the AMA (SED); and

Whereas, As of December 31, 2021, the Territory had approximately 1,400 AMA member physicians and the State had nearly 14,000 AMA member physicians; and

Whereas, Both were devasted by Hurricanes, Fiona striking Puerto Rico on or about September 19, 2022 and Ian striking Florida on or about September 28, 2022 and the days following, including damage to health care infrastructure and services; total damage estimates are still rough, but stand at about $25 Billion for Puerto Rico and about $70 Billion for Florida; and

Whereas, We have the established model for changes in short term health care financing from the US Government and its Agencies from Hurricane Maria (five years ago), in particular to both raise the 1108 Medicaid Allotment caps and to raise the Federal Medical Assistance Percentage (FMAP) to 100% at least temporarily; and

Whereas, Puerto Rico in normal times struggles with lower Medicaid caps and FMAP percentages than most of the American States; and

Whereas, In Puerto Rico there are about 250,000 Medicare Beneficiaries and about 1.6 million Medicaid Beneficiaries out of a total population of about 2.7 million (so of course, the US Federal Government provides the bulk (70%) of health care funding in Puerto Rico); about 60% of the Puerto Rican Medicare Beneficiaries have earned incomes below the poverty standard (about $12,000.00 per year); and

Whereas, Puerto Rico has a Member of Congress (called a Resident Commissioner), currently Jennifer Gonzalez-Colon, but without vote; the current Member caucuses with the Republicans; she has introduced model legislation proposed HR 7997 (June 9, 2022, with eight co-sponsors) and proposed HR 1969 (March 17, 2021, with no co-sponsors); and

Whereas, The peoples of Puerto Rico and its physicians would greatly benefit from a better funded health care system, at least to match what is provided from Federal Programs to the mainland states of the US; and
Whereas, The lessons and systems learned from and in the AMA West Side Project in Chicago might be brought to bear and be very useful in Puerto Rico; therefore be it

RESOLVED, That our American Medical Association, particularly the Department of Advocacy, move urgently, meeting with the Biden Administration to work with the Agencies, in particular the US Health and Human Services Administration and its Center for Medicare and Medicaid Services, the US Department of Defense and the US Department of Homeland Security and its Federal Emergency Management Agency to provide all available assistance to the Territory of Puerto Rico and the State of Florida including emergent, short term adjustments, in Federal based health reimbursements to physicians, hospitals, clinics, and Rural Health Care systems (Directive to Take Action); and be it further

RESOLVED, That our AMA work with all pertinent stakeholders in Puerto Rico to develop LONG TERM strategies to solve LONG TERM health care financing in the Territory. (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 10/24/22

Sources
Google Search, Wikipedia and AMA data…also from Dr. Yussef Galib-Frangie Fiol and the office of Member of Congress Jenniffer Gonzalez-Colon.

References
Packet from the Congresswoman
September 29, 2022

The Honorable Charles Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader Schumer, and Minority Leader McConnell:

Hurricane Fiona made landfall in Puerto Rico on September 19, 2022, one day shy of the fifth anniversary of Hurricane Maria’s landfall in Puerto Rico. During the 48 hours in which the rains associated with Hurricane Fiona battered the territorial extension of Puerto Rico, the approximate volume of Lake Pontchartrain fell upon soil already heavily saturated by the excessive rainfalls of the previous month. Hurricane Fiona was not Hurricane Maria, but to some extent, it was worse.

Puerto Rico suffered a complete blackout during the storm, also affecting the Island’s water utility. After two days of around-the-clock efforts to restore power, only about 20% the Island’s households got power back and about 55% had running water. Today, about 90% of the power has been restored, yet in some areas it is likely going to take months. While some of the flooding that occurred during Hurricane Maria reoccurred, many parts of Puerto Rico which had not suffered flooding during Maria were overrun with water. Bridges that were the only access to certain communities, rebuilt after Hurricane Maria, were again washed away. Other communities were left isolated by mudslides and transportation has been severely impaired by impassable roads and roads that no longer exist.
Federal agencies have quickly responded and are currently assessing the damages and determining how best to help. However, there are areas in which Congress, alone, can and must act; one of these areas is healthcare funding.

The precarious fiscal health of the Commonwealth of Puerto Rico is no secret. Although strides have been made in the past few years, the natural disasters that have struck Puerto Rico in the past 5 years—Hurricanes Irma and Maria in 2017, the 2019-20 earthquakes, the COVID-19 public health emergency—have maintained the government in a constant state of emergency. Federal assistance has been an invaluable component of the recovery process. However, the destruction caused by Hurricane Fiona will require the Government of Puerto Rico and its municipalities to incur in additional, unanticipated expenses.

In order to alleviate the financial burden on the Government of Puerto Rico and foster a healthy reconstruction process from the devastation caused by Hurricane Fiona, I ask Congress to temporarily increase the 1108 Medicaid allotment cap to $5 billion for each of the next two fiscal years and, like it did in the aftermath of Hurricane Maria, to raise the federal medical assistance percentage (FMAP) for Puerto Rico’s Medicaid program to 100%. I further ask support for an increase to the 1108 Medicaid allotment cap to $21.5 billion and to raise the FMAP to 83% to provide for the federal funding required to finance Puerto Rico’s Medicaid Program from FY25 to FY30. Having certainty in the future of our Medicaid program, that serves over 1.5 million Americans on the Island, will allow the Government of Puerto Rico to redirect the funds it currently uses to match the federal healthcare program to assist the reconstruction process. It will also allow the Puerto Rico Medicaid program to provide additional benefits which are crucial at this point, such as non-emergency transportation, adult vaccinations, diabetes supplies, and fairer rates to healthcare providers struggling to maintain their offices open in the face of this additional adversity.

I also ask Congress to provide additional funding for our 21 federal community health centers. Eighty-six percent of the patients served by community health centers in Puerto Rico have incomes below 100% of the federal poverty guidelines, as compared to 61% nationally. In addition, 67% of these patients are insured by Medicaid and CHIP, (as compared to 53%, nationally) which, because of the inherent deficiencies in our Medicaid funding, seriously restricts their sources of income. The number of patients served by these centers in the aftermath of Hurricane Maria increased almost 20% (in contrast to the 20% decrease experienced nationally during that same period), an increase is likewise expected in the economic and social conditions following Hurricane Fiona.1

Finally, I ask Congress to provide additional funding for mental health screening, case management, and mobile crisis services for communities affected by Hurricane Fiona. Many of the residents of Puerto Rico are still dealing the psychological scars of Hurricane

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Maria and the recent earthquakes, and many feel like they just cannot find the heart to start anew again, after having lost everything only five years ago.

After Hurricane Maria, Congress made a great effort to stabilize Puerto Rico’s healthcare system. That investment bore fruit and, today, Puerto Rico has a substantially more robust healthcare system that it had prior to 2017. I ask Congress, in this time of extraordinary need, to provide Puerto Rico with the tools to continue running a sustainable, stable Medicaid program which meets the needs of its most vulnerable populations and contributes to the well-being of the Island’s’ healthcare system.

Thank you for your consideration of these requests.

Sincerely,

[Signature]

Jenniffer González-Colón
Member of Congress
H.R. 1823: A Bill to Amend Title XIX of the Social Security Act to Remove the Matching Requirement for a Territory to Use Specially Allocated Federal Funds for Medicare-Covered Part D Drugs for Low-Income Individuals

The Enhanced Allotment Program (EAP) funds are provided to the territories to subsidize prescription drugs for the Medicare beneficiaries who participate in the territorial Medicaid program, in lieu of the low-income subsidy for which residents of Puerto Rico are ineligible.

FMAP does not apply to the low-income subsidy nor are States required to match funds for this program. However, to access the EAP funds, Puerto Rico is required to match federal dollars pursuant to the applicable Federal Matching Assistance Percentage which is set by statute at 55%.

This bill would remove the matching requirement for Puerto Rico to access these funds.
HR 1825: A BILL TO REMOVE THE MATCHING REQUIREMENT FOR MEDICARE PART D DRUGS

Medicare Part D is a voluntary outpatient prescription drug benefit for people with Medicare, provided through private plans approved by the federal government. Beneficiaries can choose to enroll in either a stand-alone prescription drug plan (PDP) to supplement traditional Medicare or a Medicare Advantage prescription drug plan (MA-PD), mainly HMOs and PPOs, that cover all Medicare benefits including drugs. In 2018, more than 43 million of the 60 million people with Medicare are enrolled in Part D plans.

Beneficiaries with low incomes and modest assets are eligible for assistance with Part D plan premiums and cost sharing. Through the Part D Low-Income Subsidy (LIS) program, additional premium and cost-sharing assistance is available for Part D enrollees with low incomes (less than 150% of poverty, or $18,210 for individuals/$24,690 for married couples in 2018) and modest assets (less than $14,100 for individuals/$28,150 for couples in 2018). While this assistance is available for Medicare beneficiaries in the States and in the District of Columbia, Medicare beneficiaries who reside in the territories are not eligible for the LIS.

In lieu of the LIS, the Social Security Act provides a fixed amount of funding to each territory to provide Medicaid coverage of prescription drugs for low-income Medicare beneficiaries. Before accessing the federal funds, each territory government is required to contribute, or "match", funds toward the payment of the Medicare Part D covered drugs. In the case of Puerto Rico, FMAP has been set by statute at 55%.

The territories (to varying degrees) have struggled to comply with the matching requirement and thus are not able to access the federal funding. Between Fiscal Year 2010 and Fiscal Year 2016, Puerto Rico has been able to draw down only about 51 percent of its available federal funding for prescription drugs for low-income Medicare beneficiaries.

H.R. 2172 amends title XIX of the Social Security Act to remove the matching requirement before a territory can access and draw down the territory's federal funds for Medicare Part D drugs. This bill is consistent with the recommendations made by the Congressional Task Force on Economic Growth in Puerto Rico.

\[1 \text{ If Puerto Rico's FMAP were set using the formula used for the States, the FMAP would be 83%}.\]
HR 1826: FAIRNESS IN MEDICARE PART B ENROLLMENT ACT

Medicare Part B provides coverage for physicians' services, outpatient hospital services, durable medical equipment, outpatient dialysis, and other medical services. Residents of every state and territory other than Puerto Rico who are receiving Social Security benefits are automatically enrolled in both Part A and Part B, with coverage beginning the first day of the month they turn 65.

Under federal law, when residents of Puerto Rico turn 65 and start receiving Social Security benefits, they are automatically enrolled in Part A, but not automatically enrolled in Part B. Instead, beneficiaries in Puerto Rico are required to take the affirmative step of enrolling in Part B during their seven-month initial enrollment period. If they fail to enroll, they are subject to a lifetime late-enrollment penalty of 10% for each 12-month period they were eligible but failed to enroll.

The lack of an automatic Part B enrollment process in Puerto Rico has resulted in a disproportionate number of Medicare beneficiaries in Puerto Rico paying the lifetime late-enrollment penalty. According to CMS, there are currently 35,940 Medicare beneficiaries in Puerto Rico who are paying lifetime penalties of $18,832,722 a year for enrolling late in Part B. According to CMS, there are 202,931 individuals in Puerto Rico who are currently enrolled in Part A only, not Part B.¹ Many of those individuals will be subject to a lifetime late-enrollment penalty if they do elect to enroll in Part B.

Data from the U.S. Census indicates that 43.1% of residents of Puerto Rico who are 60 years and over live below the poverty level.² Given that the U.S. Census determined the Poverty Threshold for 2019 for individuals 65 and over at $12,261,³ the annual Part B premium of $1,735.20—or 14% of the FPL—might be too costly for a large number of residents to pay.⁴ Thus, rather than propose the automatic enrollment in Part B of eligible Medicare beneficiaries in Puerto Rico, this bill maintains the automatic opt-out enrollment, but extends the period for Medicare beneficiaries in Puerto Rico to enroll in Medicare Part B, without penalty, to a total of five years. This extended period will allow beneficiaries to learn that, unlike the rest of the United States, they were not automatically enrolled in Part B and to determine if they can financially afford the cost of the Program.


⁴ Residents of Puerto Rico are ineligible to receive assistance for paying their Medicare premiums through the four different Medicare Savings Programs (the QUALIFIED MEDICARE BENEFICIARY PROGRAM, the SPECIFIED LOW-INCOME MEDICARE BENEFICIARY PROGRAM, the QUALIFYING INDIVIDUAL PROGRAM, and the QUALIFIED DISABLED AND WORKING INDIVIDUAL PROGRAM).
H.R. 2217: TERRITORY FEDERAL MATCHING REQUIREMENT EQUITY ACT OF 2021

The federal government and the Government of Puerto Rico jointly finance Puerto Rico’s Medicaid program. Puerto Rico must contribute its non-federal share of Medicaid spending to access federal dollars, which are matched at the designated federal medical assistance percentage (FMAP).

The FMAP for Puerto Rico and the territories is statutorily set at 55 percent, unlike that of the states that are set using a formula based on states’ per capita incomes (§ 1905(b) of the Social Security Act). If the match rate were set using the same income-based formula used for states, it would be the maximum allowable at 83 percent.¹

This bill would remove the statutorily set FMAP for the territories.

117th CONGRESS
1st SESSION

H. R. 1969

To amend title XVIII of the Social Security Act to address disparity in Medicare Advantage benchmark rates for regions with low Medicare fee-for-service penetration.

IN THE HOUSE OF REPRESENTATIVES
March 17, 2021

Miss GONZÁLEZ-COLÓN introduced the following bill, which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend title XVIII of the Social Security Act to address disparity in Medicare Advantage benchmark rates for regions with low Medicare fee-for-service penetration.

1. Be it enacted by the Senate and House of Representa-
2. tives of the United States of America in Congress assembled,
3. SECTION 1. SHORT TITLE.
4. This Act may be cited as the “Medicare Advantage
5. Integrity Act”.
SEC. 2. ADDRESSING DISPARITIES IN MEDICARE ADVANTAGE BENCHMARK LEVELS BASED ON PENETRATION.

(a) IN GENERAL.—Section 1853(n) of the Social Security Act (42 U.S.C. 1395w–23(n)) is amended—

(1) in paragraph (1)(B), by striking "subsequent year" and inserting "subsequent year, subject to paragraph (6),"; and

(2) by adding at the end the following new paragraph:

"(6) AVERAGE GEOGRAPHIC ADJUSTMENT FLOOR.—For 2022 and each subsequent year, when calculating the adjusted average per capita cost under section 1876(a)(4) for the purposes of establishing the base payment amount specified in paragraph (2)(E), the average geographic adjustment shall not be less than 0.70 for any area. For purposes of the previous sentence, the Secretary may define the term ‘average geographic adjustment’ by program instruction or otherwise."

(b) ENSURING PLAN PAYMENTS FLOW TO PROVIDERS.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w–27(e)) is amended by adding at the end the following new paragraph:

"(6) STRENGTHENING SUPPORT TO HEALTH CARE PROVIDERS.—A contract under this section
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with an MA organization shall require that, with re-
spect to any increase in blended benchmark amount
attributable to section 1853(n)(6), the plan shall
provide that no less than 50 percent of such increase
is directed toward provider compensation.”.
117th CONGRESS
2d SESSION

H. R. 7997

To amend title XVIII of the Social Security Act to establish a floor in Medicare Advantage benchmark rates for regions with low Medicare fee-for-service penetration and to make the Medicare Savings Program available in all jurisdictions.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2022

Miss GONZÁLEZ-COLÓN, for herself, Mr. SOTO, Ms. VELÁZQUEZ, Ms. SALAZAR, Mr. CRIST, Mr. FITZPATRICK, Mr. BACON, Mr. ESPAILLAT, and Mrs. RADEWAGEN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend title XVIII of the Social Security Act to establish a floor in Medicare Advantage benchmark rates for regions with low Medicare fee-for-service penetration and to make the Medicare Savings Program available in all jurisdictions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Achieving Equity in the Treatment of Dual Eligible Beneficiaries Act".
SEC. 2. ADDRESSING DISPARITIES IN MEDICARE ADVANCE BENCHMARK LEVELS BASED ON PENETRATION.

(a) IN GENERAL.—Section 1853(n) of the Social Security Act (42 U.S.C. 1395w–23(n)) is amended—

(1) in paragraph (1)(B), by striking "subsequent year" and inserting "subsequent year, subject to paragraph (6),"; and

(2) by adding at the end the following new paragraph:

"(6) AVERAGE GEOGRAPHIC ADJUSTMENT FLOOR.—For 2024 and subsequent years, when calculating the adjusted average per capita cost under section 1876(a)(4) for the purposes of establishing the base payment amount specified in paragraph (2)(E), the average geographic adjustment shall not be less than 0.70 for any area. For the purposes of the previous sentence, the Secretary may define the term 'average geographic adjustment' under subparagraph (A) by program instruction or otherwise."

(b) ENSURING PLAN PAYMENTS FLOW TO PROVIDERS AND PATIENTS.—Section 1854(a)(6) of the Social Security Act (42 U.S.C. 1395w–24(a)(6)) is amended by adding at the end the following new subparagraph:
“(C) Ensuring increased payments support care.—With respect to the increase in blended benchmark amount attributable to the application of section 1853(n)(6), no less than 50 percent shall be directed toward payment for basic benefits as defined in section 1852(a)(1)(B).”.

SEC. 3. EXPANDING THE MEDICARE SAVINGS PROGRAM TO THE TERRITORIES.

Section 1905(p)(4) of the Social Security Act (42 U.S.C. 1396d(p)(4)) is amended by inserting “for fiscal years through 2022” after “Columbia”).