

Statement before the House Committee on Natural Resources
Honorable Luis G. Fortuño, former Governor of Puerto Rico
Full Committee Hearing: “The President's FY22 Budget Priority for the
Territories: Medicaid, SSI, and SNAP Parity”
Wednesday, July 28, 2021 – 1:00pm

Thank you, Chairman Grijalva, Ranking Member Westerman, Vice-Chair Sablan and Ranking Member González-Colón for the opportunity to testify on the disparities in federal programs in the U.S. territories.

As a former Member of Congress and Governor of Puerto Rico, I will emphasize my remarks on the specific challenges the American citizens residing in Puerto Rico face on Medicaid, Supplemental Security Income (SSI) and the Supplemental Nutrition Assistance Program (SNAP). These are three of the over 40 federal programs in which U.S. Territories, including Puerto Rico, are treated different than the states.¹

MEDICAID

Currently, federal law caps Puerto Rico’s Medicaid Federal Medical Assistance Percentage (FMAP) at 55% and \$395 million and the territories suffer from similar treatment. Because these statutory caps are so patently insufficient to meet the needs of the territories’ population, their governments have had to rely on short-term funding infusions every year or two for most of the last decade. However, this temporary funding has always been at much lower levels than needed to address the health care conditions of the U.S. citizens in the territories.

This longstanding inequitable treatment has led to lower levels of care, inadequate reimbursement to providers and reduced access to coverage. Due to insufficient funding, seven of the seventeen Medicaid required benefits are not available in Puerto Rico. To a great degree due to this dire situation, the island’s population suffers from higher rates of hypertension, diabetes, asthma, HIV/AIDS and other chronic medical conditions. Additionally, a significant number of health care providers have moved to the mainland for better working conditions. It should be self-evident by now that these Medicaid “cliffs” and stop-gap measures create significant uncertainty, impede long-term, planning and are not an acceptable way to govern. Instead, Governor Pierluisi and Congresswoman González-Colón have

advocated for a long-term solution that promotes state-like treatment. I agree with them and hope that Congress will legislate accordingly.

SUPPLEMENTAL SECURITY INCOME (SSI)

The extension of SSI benefits to residents of the territories is currently subject to judicial review. Said legal action relates to Mr. Vaello-Madero, who during his entire adult life worked and paid taxes in the U.S. mainland. He began receiving SSI disability benefits while residing in the State of New York. The following year he moved to Puerto Rico to assist his ailing wife and continued to receive said benefits, not knowing that his change in address made him ineligible to receive the same. In 2016 he applied for retirement benefits and the Social Security Administration became aware of his new home address and ceased SSI benefit payments. The U.S. Department of Justice (DOJ) filed a lawsuit invoking a criminal statute against him and demanded recovery of over \$28,000 in SSI benefits received while residing in Puerto Rico. Mr. Vaello-Madero's counsel argued that this action discriminated against the residents of the U.S. territories and violated the U.S. Constitution's guarantee of Equal Protection. The U.S. Circuit Court of Appeals and the U.S. District Court ruled that discrimination against the island's residents with respect to the SSI program failed judicial review under any legal standard. This determination will be reviewed by the U.S. Supreme Court later this year.

Instead of SSI, the island receives supplemental assistance through the AID TO THE AGED, BLIND, AND DISABLED PROGRAM (AABD). This capped grant applied to the States prior to the establishment of SSI. It excludes children with disabilities and covers less than one-ninth the number of impoverished disabled or elderly citizens who would qualify for SSI.

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

Puerto Rico is currently excluded from SNAP and instead has the Nutrition Assistance Program (NAP), funded by Congress every year at a set cap of approximately \$1.9 billion. When a disaster strikes, Puerto Rico has to rely on emergency appropriations to cover any additional expenses related to increased participation. This can place additional burdens on state agencies that need to prepare for either receiving additional funds or prepare for potentially dropping

participants that joined after an emergency because they do not have the needed funds to keep them in the program. Like Congresswoman González, I believe a transition to SNAP should be considered to provide for proper nutrition assistance on the Island.

All of these programs are designed to assist those citizens in greater need among us. An American living in poverty in the continental United States is no more needy, vulnerable, or deserving of assistance than an American living in poverty in a territory. There is no justifiable reason for this exclusion. This is especially true given the valor and courage shown by over 225,000 veterans from Puerto Rico that have served in our armed forces since U.S. citizenship was granted to island residents in 1917, as well as its 9 Medal of Honor recipients or the more than 1,900 that made the ultimate sacrifice in defense of freedom and our Nation.

Thank you again for the opportunity to testify. I look forward to answering any questions you may have.

1 – Congressional Task Force on Economic Growth in Puerto Rico Report, December 2016.

Note: The opinions expressed above are my own and do not necessarily represent the views of Steptoe & Johnson LLP, its clients or employees.