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Medicaid Financing for the Territories

Medicaid is a joint federal-state program that finances the delivery of medical services for low-income individuals. The territories (i.e., American Samoa, the Commonwealth of the Northern Mariana Islands [CNMI], Guam, Puerto Rico, and the U.S. Virgin Islands [USVI]) operate Medicaid programs under rules that differ from those applicable to the 50 states and the District of Columbia (DC).

American Samoa and CNMI operate their Medicaid programs under the Section 1902(j) waiver authority. Under these waivers, the only Medicaid requirements that may not be waived are (1) the federal medical assistance percentage (FMAP) rate (i.e., federal matching rate); (2) the annual federal capped funding; and (3) the requirement that Medicaid payments are for services otherwise coverable.

For Guam, Puerto Rico, and USVI, most of the eligibility and benefit requirements for the states apply. However, the Government Accountability Office (GAO) has documented that these three territories had not covered all of the federally mandated coverage groups or benefits.

Medicaid financing for the territories is different from the financing for the states. Federal Medicaid funding to the states and DC is open-ended, but the Medicaid programs in the territories are subject to annual federal capped funding. The FMAP rate for the territories is not determined using the FMAP formula used for the states and DC.

Federal Medicaid Funding

Federal Medicaid funding for the territories has come from a few different sources. The permanent source is the annual federal capped funding, which was supplemented by various funding sources from July 1, 2011, through December 31, 2019. During this period, most of the federal Medicaid funding for the territories was provided through the supplemental funding rather than the annual federal capped funding.

The territories also receive Section 1935(e) of the Social Security Act (SSA) funding in addition to the annual federal capped funding. Section 1935(e) funding is sometimes referred to as the *Enhanced Allotment Program* (or EAP), and territories receive these funds in lieu of their residents being eligible for low-income subsidies under Medicare Part D. The territories can use this funding to provide prescription drug coverage under Medicaid for low-income Medicare beneficiaries.

Annual Federal Capped Funding

The Medicaid programs in the territories are subject to annual federal capped funding. These Medicaid cap amounts vary by territory and increase annually according to the change in the medical component of the Consumer Price Index for All Urban Consumers. Once the cap is reached, absent another source of federal funding, the territories assume the full cost of Medicaid services or, in some instances, may suspend services or cease payments to providers until the next fiscal year.

Certain Medicaid expenditures are disregarded for purposes of the annual federal capped funding, such as (1) Medicaid Electronic Health Record Incentive Program payments, (2) design and operation of the claims and eligibility systems, (3) services for citizens of Freely Associated States (the Marshall Islands, Micronesia, and Palau), and (4) Coronavirus Disease 2019 (COVID-19) vaccines during the COVID-19 public health emergency period. Also, for Puerto Rico and USVI, Medicaid Fraud Control Unit expenditures are disregarded.

Supplemental Medicaid Funding

Prior to the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended), all five territories typically exhausted their Medicaid annual federal capped funding before the end of the fiscal year. For this reason, the ACA included supplemental Medicaid federal funding for all of the territories; later legislation provided additional federal funding to certain territories. All of these funds expired on either September 30 or December 31, 2019.

Funding for FY2020 and FY2021

The Further Consolidated Appropriations Act, 2020 (P.L. 116-94), as amended by the Family First Coronavirus Response Act (FFCRA; P.L. 116-127), provided significantly increased federal annual capped funding for Medicaid to the territories for FY2020 and FY2021. **Table 1** shows these funding amounts, which are comparable to what the territories received in recent years through the combination of the annual federal capped funding and the supplemental Medicaid funding.

Table 1. Annual Federal Capped Funding for FY2020, FY2021, and FY2022

($ in millions)

	FY2019	FY2020	FY2021	FY2022
American Samoa	$12.2	$86.3	$85.6	$87.9
CNMI	$6.7	63.1	62.3	64.0
Guam	$18.0	130.9	129.7	133.2
Puerto Rico	$366.7	2,716.2	2,809.1	2,943.0[a]
USVI	$18.3	128.7	127.9	131.4
Total	**$421.9**	**$3,125.2**	**$3,214.6**	**$3,359.5**

Source: Communication from Centers for Medicare & Medicaid Services (CMS) June 2019 for FY2019; SSA §1108(g)(2) and (6) for

FY2020 and FY2021; CMS letters to territories September 24, 2021 for FY2022.

Notes: CNMI = Commonwealth of the Northern Mariana Islands; USVI = U.S. Virgin Islands. FY2019 annual capped funding was significantly supplemented by other funding sources (see "Supplemental Medicaid Funding"). Table does not include the $200 million for Puerto Rico (see "Additional Funding for Puerto Rico").

a. The Government Accountability Office's legal review of the statutory language found this funding amount was not authorized (see "Funding for FY2022").

Funding for FY2022

For FY2022, the Centers for Medicare & Medicaid Services (CMS) construed the effect of the amendments that provided federal Medicaid funding to the territories in FY2020 and FY2021 as providing federal Medicaid funding to the territories comparable to the annual capped funding provided in either FY2020 (for Puerto Rico) or FY2021 (for the other territories). CMS informed each territory of its FY2022 Medicaid funding level through letters sent in September 2021. (See **Table 1**.)

The Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43) included a provision for GAO to provide a legal review of the statutory language on the most plausible plain reading of how such FY2022 allotment levels should be calculated. GAO concluded " ... that section 1108(g) requires that HHS base its calculation of the FY 2022 allotment for Puerto Rico on the territory's allotment for FY 2019, rather than FY 2020. Accordingly, HHS's FY 2022 allotment of $2,943,000,000 for Puerto Rico was not authorized." CMS sent a letter to Puerto Rico after GAO released the legal review contending that the agency accurately calculated Puerto Rico's FY2022 funding amount.

Additional Funding for Puerto Rico

A provision in P.L. 116-94 provided Puerto Rico with an additional $200 million in federal Medicaid funding for each of FY2020 and FY2021 if Puerto Rico established a floor for Medicaid physician payment rates that is 70% of the Medicare rate in Puerto Rico for those services. Puerto Rico received this funding in both FY2020 and FY2021. This funding also was provided in FY2022 through the Consolidated Appropriations Act, 2022 (P.L. 117-103).

FMAP Rates

The federal share of most Medicaid expenditures is determined by the FMAP rate. The FMAP rates for the 50 states and DC are determined annually and vary by state according to each state's per capita income. The rates can range from 50% to 83%. By contrast, the FMAP rates for the territories have been set at 55% since July 1, 2011; this means each territory gets 55 cents back from the federal government for almost every dollar the territory spends on its Medicaid program up to the federal funding limits.

For FY2020 through FY2022, FMAP rates for the territories have been temporarily increased through a number of laws. **Table 2** shows FMAP rates for FY2019 through FY2024. For the beginning of FY2020 (i.e., October 1, 2019, through December 20, 2019), the FMAP rate for the territories was increased to 100% (i.e., fully federally funded) for all territories. For the remainder of FY2020 (i.e., December 21, 2019, through September 30, 2020) and FY2021, the FMAP rate for the territories was increased from 55% to 83% for American Samoa, CNMI, Guam, and USVI and from 55% to 76% for Puerto Rico. These increased FMAP rates were extended for FY2022 and the beginning of FY2023 through multiple laws; currently, the increased FMAP rates have been extended through December 13, 2022. (Puerto Rico's FMAP rate reverted to 55% for the period of December 14, 2021, through December 30, 2021.)

FFCRA increases the FMAP rate for all states, DC, and the territories by 6.2 percentage points beginning January 1, 2020, and ending on the last day of the calendar quarter in which is the last day of the COVID-19 pandemic public health emergency period.

Conclusion

Federal Medicaid financing for the territories is uncertain for FY2023 and subsequent years. First, without legislation, the federal Medicaid annual federal capped funding for Puerto Rico is uncertain after the legal review from GAO. Also, the FMAP rate for the territories has been increased through December 13, 2022; if the increased FMAP rate expires, the territories would have to pay for a much larger share of the Medicaid program.

Table 2. FMAP Rates for the Territories

	American Samoa, CNMI, Guam, and USVI	Puerto Rico
FY2019	55%	55%
FY2020		
Oct. 1-Dec. 20	100%	100%
Dec. 21-Sept. 30	83%	76%
FY2021	83%	76%
FY2022	83%	76%
Oct. 1-Dec. 3	83%	76%
Dec. 4-Dec. 31	83%	55%
Jan. 1-Sept. 30	83%	76%
FY2023		
Oct. 1-Dec. 13	83%	76%
Dec. 14-Sept. 30	55%	55%
FY2024	55%	55%

Source: SSA §1905(b) and (ff).

Notes: FMAP rates do not include the FFCRA FMAP increase of 6.2 percentage points during the COVID-19 pandemic public health emergency period. CNMI = Commonwealth of the Northern Mariana Islands; USVI = U.S. Virgin Islands.

Alison Mitchell, Specialist in Health Care Financing

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