

**Congress of the United States**  
**Washington, DC 20515**

March 17, 2015

The Honorable Sylvia Mathews Burwell  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

The Honorable Andrew Slavitt  
Acting Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Sean Cavanaugh  
Deputy Administrator  
Center for Medicare  
Centers for Medicare & Medicaid Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Burwell, Acting Administrator Slavitt and Deputy Administrator Cavanaugh:

We write to reiterate our deep concern regarding the future of the Medicare Advantage (MA) program in Puerto Rico in 2016 and beyond, and to express our sincere hope that the Centers for Medicare & Medicaid Services (CMS) will take concrete action in the April 6, 2015 Final Rate Announcement and Call Letter to preserve the stability of the MA program in Puerto Rico. Absent such action, we fear that the proposed payment policy changes contained in the February 20<sup>th</sup> Advance Notice and Draft Call Letter could result in the substantial reduction or even elimination of affordable options for MA beneficiaries in Puerto Rico starting next calendar year. Those most at risk are low-income seniors who are dually eligible for both Medicare and Medicaid.

As you are aware, Medicare Advantage is tremendously popular in Puerto Rico, due to lower cost sharing, better care coordination, and enhanced benefits that help meet the needs of the island's elderly population. Over 75 percent of the 745,000 Medicare beneficiaries in Puerto Rico—that is, about 560,000 individuals—are enrolled in an MA plan, which is by the far the highest MA penetration rate in any U.S. jurisdiction. Approximately half of these 560,000 MA beneficiaries are eligible for both Medicare and Medicaid.

As CMS has recognized in the past, there are a number of factors unique to Puerto Rico—some of which are rooted in demographics, others of which are rooted in the island’s unequal treatment under federal law—that can and should be considered as the agency proposes payment reforms to the MA program. For example, in the states, Medicare beneficiaries with an annual income below 150 percent of the federal poverty level are eligible to receive a low-income subsidy from the federal government, which reduces or eliminates their monthly premium and other out-of-pocket costs associated with Part D. By contrast, beneficiaries in Puerto Rico are not eligible for the low-income subsidy. Instead, the federal government provides the Puerto Rico government with an “enhanced allotment”—known as an EAP—to supplement the territory’s annual Medicaid cap. In 2014, under the EAP formula, Puerto Rico was eligible to receive about \$42 million. Moreover, in order to draw down those funds, the Puerto Rico government must pay a 45 percent local match, just as it must do to access all other federal Medicaid funding. Based on Census Bureau statistics, it can be estimated that, if the low-income subsidy were extended to Puerto Rico, about 60 percent of Puerto Rico’s 745,000 Medicare beneficiaries could be eligible for federal assistance to purchase prescription drugs. An estimate of the total amount of federal assistance that would flow to Puerto Rico through the low-income subsidy is \$400 million a year, which is about 10 times the amount of federal funding that Puerto Rico is currently eligible to receive under the EAP. Puerto Rico’s unequal treatment with respect to the low-income subsidy invariably affects medication adherence among beneficiaries, which in turn lowers the star rating conferred upon—and thus the payments made to—MA plans on the island. For CMS not to consider this fact when developing payment policies is illogical and unfair.

In 2012, we witnessed the first year of a six-year phase-in of the new MA payment rate formula in Puerto Rico. In that year, and in each year since, Puerto Rico has consistently received the most severe funding cuts in the nation. Between 2011 and 2015, CMS has reduced MA funding by approximately 19 percent in Puerto Rico, compared to 10 percent in the rest of the United States. With the proposed changes in the 2016 Advance Notice and Draft Call Letter, funding is estimated to decrease by another 9 to 14 percent in 2016.

If these reductions are realized, the impact will be severe. Beneficiaries could experience substantially-reduced benefits and substantially-increased cost sharing. Moreover, a 9 to 14 percent reduction would likely deal a devastating blow to many, if not all, of the dual eligible plans in Puerto Rico since there will be insufficient funding to allow plans to offer the more comprehensive benefits mandated for those members without incurring significant financial losses. This outcome is unacceptable and, and we respectfully submit, requires CMS’s immediate attention.

Given the urgency of this matter, we hope and expect that CMS will work with our offices and stakeholders in Puerto Rico so that the Final Rate Announcement and Call Letter ensures that MA will remain a viable option in Puerto Rico in 2016 and beyond.

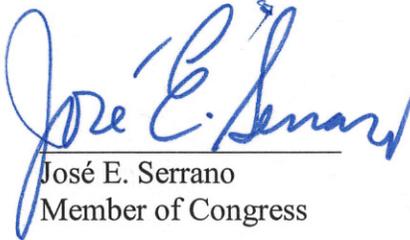
Sincerely,



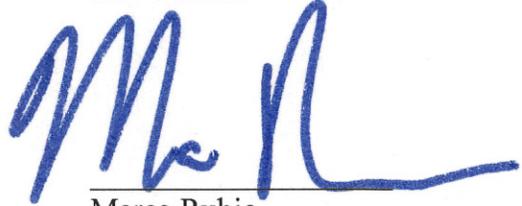
Pedro R. Pierluisi  
Member of Congress



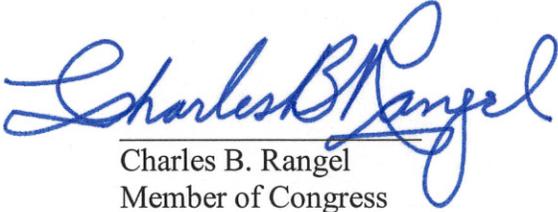
Charles E. Schumer  
U.S. Senator



José E. Serrano  
Member of Congress



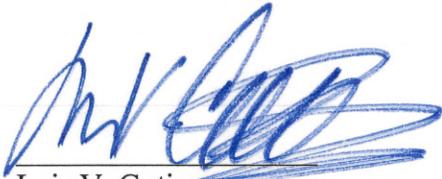
Marco Rubio  
U.S. Senator



Charles B. Rangel  
Member of Congress



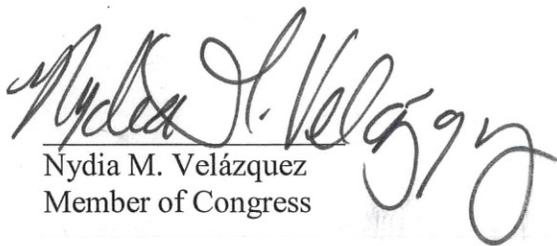
Kirsten E. Gillibrand  
U.S. Senator



Luis V. Gutierrez  
Member of Congress



Bill Nelson  
U.S. Senator



Nydia M. Velázquez  
Member of Congress