PEDRO R. PIERLUISI
PUERTO RICO

WASHINGTON OFFICE:
1213 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-2615 FAX: (202) 225-2154

SAN JUAN OFFICE:
157 AVENIDA DE LA CONSTITUCIÓN
ANTIGUO EDIFICIO DE MEDICINA TROPICAL
ALA DE ENFERMERIA 2DO PISO
SAN JUAN, PUERTO RICO 00901
(787) 723-6333 FAX: (787) 729-7738

Congress of the United States
House of Representatives
Washington, DC 20515-5401

COMMITTEES:
ETHICS
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NATURAL RESOURCES

February 11, 2014

Jonathan D. Blum
Principal Deputy Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Ave. SW
Washington, DC 20201

Dear Mr. Blum:

I want to thank you and your colleagues at CMS for the concrete steps you have taken since passage of the *Affordable Care Act* to help ensure that Medicare Advantage (MA) plans in Puerto Rico are fairly compensated by the federal government so they can continue to provide affordable and high-quality care to over 530,000 island beneficiaries. Nevertheless, I believe that additional steps are sorely needed. I have set forth some potential options for your consideration below, and respectfully request a meeting with you as soon as feasible to discuss these options in further detail.

Since the *Affordable Care Act*-mandated MA cuts began in 2012, Puerto Rico has absorbed the largest dollar ($47 per member, per month) and percentage (8%) cuts in the average MA benchmark of any U.S. jurisdiction. The Puerto Rico MA benchmark is the lowest in the nation at $548, which is $223 (29%) below any U.S. state. When one considers that 73% of the Medicare population in Puerto Rico—and 93% of the dual eligible population—are enrolled in an MA plan, the combination of the already-low benchmark and the additional cuts scheduled to take effect are cause for serious concern, especially in light of the fact that Puerto Rico is treated unequally under Medicaid and traditional Medicare because it is a territory and not a state.

Here are some proposed adjustments to the current payment methodology that I hope CMS will consider implementing.

(1) Adjust MA rates to account for the Part A increase of 41.8% in 2014:

- The CMS Final Rule for IPPS notes that Puerto Rico hospitals will receive a 41.8% payment increase in 2014. However, the regular FFS cost estimate formula used by CMS will not consider this change for purposes of establishing the 2015 MA benchmarks. CMS should make a corresponding adjustment to Part A costs for Puerto Rico in 2014 and 2015 MA Rates in order to generate a reasonable estimate of

2015 FFS costs. Unless the hospital payment increases are incorporated immediately for 2015, the resulting MA benchmarks will be significantly underestimated.

(2) Adapt medication adherence measures:

- Scientific studies have concluded that there is a direct relationship between a beneficiary's out-of-pocket costs and the beneficiary's level of compliance with his or her prescribed medication treatment. This problem is likely to be particularly pronounced in Puerto Rico, given that per capita income is far below the national average and Puerto Rico beneficiaries are not eligible for the Part D Low Income Subsidy (an egregious disparity I recently introduced legislation to eliminate). Notably, even when MA plans in Puerto Rico are above average with respect to the Part D improvement measure, medication adherence scores average 1.1 STARs compared to the national average of 3.7 STARs. In light of the foregoing, CMS should consider using territory-only trends to establish medication adherence thresholds applicable to plans in Non-LIS areas.

- Alternatively, the medication adherence measures should be temporarily excluded from the aggregate Part D scores for MA plans in territories to avoid a compounding negative impact. At present, the medication adherence measures are serving to prevent MA plans in Puerto Rico from achieving a 3.5 STAR rating, even though they are receiving higher-than-average ratings in many of the other quality measures.

(3) Modifications to hospice benefit carve-out:

- The hospice carve-out is reducing FFS estimated costs by about three times more in Puerto Rico compared to the national average. While CMS carefully examines this problem, the agency should consider using an alternative factor to avoid any unintended adverse impact to beneficiaries. Alternatively, MedPac has recommended that hospice benefits should be allowed to be included within MA plan risk. This recommendation may provide the most appropriate mechanism to address any potential anomaly in the carve-out calculation, and also provides better support for an integrated care model to care for the population in need of hospice services.

Thank you for your continued attention to this matter. You have always been very generous with your time, and I hope we can meet again to discuss this important topic.

Sincerely,

Pedro R. Pierluisi
Member of Congress

cc: The Hon. Dave Camp, Chairman, House Committee on Ways and Means
The Hon. Ron Wyden, Chairman, Senate Committee on Finance