

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

February 3, 2009

The Honorable Harry Reid
Majority Leader
S-221, the Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
S-230, the Capitol
Washington, DC 20510

The Honorable Richard J. Durbin
Majority Whip
S-321, the Capitol
Washington, DC 20510

The Honorable Jon Kyl
Minority Whip
S-208, the Capitol
Washington, DC 20510

Dear Majority Leader Reid, Minority Leader McConnell, Majority Whip Durbin, and Minority Whip Kyl:

I write to thank you for the many provisions in the Senate version of the American Recovery and Reinvestment Act that would provide equitable treatment for the nearly four million U.S. citizens of Puerto Rico. My constituents, like yours, are hurting. The Island's December 2008 unemployment rate was 13.5%, a one percent increase over its November rate, and the highest of any state or territory by a substantial margin. As in the states, residents of Puerto Rico who lose their jobs are also likely to lose their employer-sponsored health insurance, and many will see their income levels fall below the poverty line. As a result, the Island's Medicaid rolls are certain to swell, further exacerbating the fiscal crisis that presently confronts the Commonwealth government. Puerto Rico, which has an overall budget of \$10 billion, is facing an FY 2009 structural deficit of \$3.2 billion, including a \$500 million deficit in health care expenses. For the reasons set forth below, I respectfully submit that a meaningful increase in Medicaid funding, above and beyond that contained in either H.R. 1 or the Senate Finance Committee bill, is fair and appropriate under all the circumstances. I therefore ask that you support a temporary increase to the spending cap that will result in an effective FMAP for Puerto Rico (and the other territories) of at least 30%.

In addition, I respectfully submit that the various refundable tax credits contained in the recovery bill—including the Child Tax Credit (which is currently available to families in Puerto Rico with

three or more children, but not available to families with one or two children), the Earned Income Tax Credit, the Homebuyers' tax credit, the American Opportunity education tax credit, and various energy-related tax credits for individuals and businesses—should be fully extended to the U.S. citizens of Puerto Rico. These credits are available to millions of residents of the states who have no federal income tax liability. Residents of Puerto Rico pay federal employment taxes and they pay federal income taxes on their worldwide income except for income from the Island. Fairness dictates that they should be eligible for these tax credits on the same terms as their fellow citizens in the states.

Medicaid

In the 50 states, there are no limits on the federal payments for Medicaid if the state is able to contribute its share of matching funds. The federal share (FMAP) can range from 50% for states with higher per capita incomes to 83% for states with lower incomes. In Puerto Rico (and the other territories), the law provides for an FMAP of only 50%, despite the fact that Puerto Rico's per capita income is very low. There is also a dollar cap on annual federal contributions to Medicaid in Puerto Rico. In FY 2009, the spending cap is \$272.4 million. Due to the spending cap, Puerto Rico's "effective" FMAP—the actual percentage of Puerto Rico's total Medicaid expenditures that is paid by the federal government each year—is not 50%, but less than 20%.

The extraordinarily low spending cap has two profoundly negative—and entirely predictable—consequences for the Commonwealth government and the people of Puerto Rico. First, the Commonwealth must spend a tremendous amount from its own coffers on Medicaid. This is a major contributing factor to the Island's crippling deficit. Second, to control spending, Puerto Rico's Medicaid program (a) does not cover—or only covers with limitations—certain mandatory services, mainly in the area of long-term care; and (b) has been compelled to establish eligibility criteria that exclude from coverage many residents who would qualify for Medicaid if they lived in the states. Thus, vulnerable U.S. citizens receive inferior care, or no coverage at all, because they reside in Puerto Rico. Cognizant of the cap's unfairness, President Obama has pledged—most recently in a January 2, 2009 letter to Governor Luis G. Fortuño—to continually raise the cap until it disappears. The 2008 Democratic National Platform states the same.

H.R. 1 would increase the FMAP for the states by 4.9%. The House bill would increase the spending cap for the territories by 20%, which translates into only a 4% increase in Puerto Rico's effective FMAP. For its part, the Finance Committee bill would increase the FMAP for the states by 5.6%. It would increase the spending cap for the territories by 11.2%, which would raise the Island's effective FMAP by a mere 2%. The injustice of the spending cap would thus be compounded under both bills. The proposed increases would still leave Puerto Rico's effective FMAP at 20%-22%, less than half the FMAP in any state. As a practical matter, neither increase would do much to alleviate the territory's budget shortfall, which is certain to increase as more residents qualify for Medicaid. I hope you share my belief that sound policy-

making, as well as basic fairness, counsel in favor of a meaningful increase to Puerto Rico's spending cap—one that will result in an effective FMAP of no less than 30%.

I thank you again for all your assistance thus far and for your attention to these matters.

Sincerely,



Pedro R. Pierluisi
Member of Congress

cc: The Hon. Max Baucus
The Hon. Jeff Bingaman
The Hon. Susan M. Collins
The Hon. Kirsten Gillibrand
The Hon. Charles E. Grassley
The Hon. Edward M. Kennedy
The Hon. Mel Martinez
The Hon. Robert Menendez
The Hon. Bill Nelson
The Hon. John D. Rockefeller
The Hon. Charles E. Schumer