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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 Social Security Act (SSA) 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 met these requirements.

Medicaid financing for the territories is different from the financing for the states and DC. Federal Medicaid funding to the states and DC is open-ended, but 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 comes from different sources: annual federal capped funding and SSA Section 1935(e) funding. In addition, Puerto Rico may receive additional federal Medicaid funding (1) if Puerto Rico establishes a floor for Medicaid physician payment rates and (2) if certain program integrity conditions are met. American Samoa, CNMI, Guam, and the USVI are eligible for additional federal Medicaid funding for improving, updating, or enhancing a Medicaid data system.

### Annual Federal Capped Funding

The main source of federal Medicaid funding for the territories is the annual federal capped funding. For all the territories, once the cap is reached, 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, and (3) services for citizens of Freely Associated States (the Marshall Islands, Micronesia, and Palau). Also, for Puerto Rico and USVI, Medicaid Fraud Control Unit expenditures are disregarded. For American Samoa, CNMI, Guam, and USVI, the Medicaid data systems improvement expenditures are disregarded.

The annual federal capped funding for the territories was supplemented by various sources of federal funding from July 1, 2011, through December 31, 2019. Then, as shown in **Table 1**, the FY2020 and FY2021 annual federal capped funding for the territories was significantly increased to be comparable to what the territories had received in recent years through the combination of the annual federal capped funding and the supplemental Medicaid funding.

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 federal capped funding provided in either FY2020 (for Puerto Rico) or FY2021 (for the other territories).

**Table 1. Annual Federal Capped Funding, FY2019-FY2023**

($ in millions)

| | FY19 | FY20 | FY21 | FY22 | FY23 |
|---|---|---|---|---|---|
| **American Samoa** | $12 | $86 | $86 | $88 | $90 |
| **CNMI** | 7 | 63 | 62 | 64 | 66 |
| **Guam** | 18 | 131 | 130 | 133 | 137 |
| **Puerto Rico** | 367 | 2,716 | 2,809 | 2,943 | 3,275 |
| **USVI** | 18 | 129 | 128 | 131 | 135 |
| **Total** | **$422** | **$3,125** | **$3,215** | **$3,360** | **$3,704** |

**Source:** Communication from Centers for Medicare & Medicaid Services (CMS) June 2019 for FY2019; Social Security Act §1108(g) for FY2020 and FY2021; CMS letters to territories September 2021 for FY2022; and communication from CMS April 2023 for FY2023.

**Notes:** CNMI = Commonwealth of the Northern Mariana Islands; USVI = U.S. Virgin Islands. May not sum to totals due to rounding. FY2019 funding was supplemented by other funding sources.

Currently, the annual federal capped Medicaid funding is determined differently for American Samoa, CNMI, Guam, and USVI than for Puerto Rico.

The annual federal capped funding for Medicaid for American Samoa, CNMI, Guam, and USVI varies by territory and increases annually according to the change in the medical component of the Consumer Price Index for All Urban Consumers (CPI-U). The FY2023 annual federal

capped funding for these territories was based on each of these territories' FY2022 funding. (See **Table 1**.)

The amount of Puerto Rico's annual federal capped funding for Medicaid for FY2023 through FY2027 is specified in statute, and as shown in **Table 1**, the amount of funding is comparable to what Puerto Rico has received in recent years (i.e., FY2020 through FY2022). Under current law, the annual federal capped Medicaid funding for Puerto Rico is to be significantly reduced in FY2028 and subsequent years.

### Section 1935(e) Funding

The territories also receive SSA Section 1935(e) 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 only use this funding to provide prescription drug coverage under Medicaid for low-income Medicare beneficiaries.

### Additional Funding for Puerto Rico

Puerto Rico received an additional $200 million in federal Medicaid funding for each of FY2020 though FY2022 for establishing a floor for Medicaid physician payment rates that was 70% of the Medicare Part B rate in Puerto Rico for those services. For each fiscal year from FY2023 through FY2027, Puerto Rico can receive an additional $300 million in federal Medicaid funding if Puerto Rico establishes a floor for Medicaid physician payment rates implemented through a directed payment arrangement that is 75% of the Medicare Part B rate in Puerto Rico for those services.

For FY2023 through FY2027, Puerto Rico can receive an additional increase in federal Medicaid funding of $75 million in each fiscal year if certain program integrity conditions are met. For FY2023 through FY2025, Puerto Rico is eligible for the additional $75 million if the Secretary of Health and Human Services (HHS) determines that Puerto Rico has designated an officer to serve as the Medicaid program integrity lead. For FY2026 and FY2027, Puerto Rico is eligible for the additional $75 million if the HHS Secretary determines that Puerto Rico meets the same requirement for a Medicaid program integrity lead and a new requirement for a contracting and procurement oversight lead.

### Medicaid Data Systems Improvement Payments

American Samoa, CNMI, Guam, and the USVI are eligible for additional federal Medicaid funding for improving, updating, or enhancing a Medicaid data system beginning October 1, 2023. The federal government is to pay 100% of these expenditures. The total amount of payments for the data system improvements for all four territories is not to exceed $20 million. The HHS Secretary is to specify an allotment for each territory so that each eligible territory receives an equitable allotment.

## 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 are set at a fixed rate in statute.

The FMAP rate for American Samoa, CNMI, Guam, and USVI was recently set at 83% permanently. This means these four territories get 83 cents back from the federal government for most dollars these territories spend on its Medicaid program up to the federal funding limits.

Currently, the FMAP rate for Puerto Rico is temporarily increased from 55% to 76%. This temporary increase to Puerto Rico's FMAP rates is set to end September 30, 2027.

**Table 2. FMAP Rates for the Territories**

| | American Samoa, CNMI, Guam, and USVI | Puerto Rico |
|---|---|---|
| **FY2023** | 83% | 76% |
| **FY2024** | 83% | 76% |
| **FY2025** | 83% | 76% |
| **FY2026** | 83% | 76% |
| **FY2027** | 83% | 76% |
| **FY2028** | 83% | 55% |

**Source:** SSA §1905(b) and (ff).
**Notes:** CNMI = Commonwealth of the Northern Mariana Islands; USVI = U.S. Virgin Islands.

### Potential FMAP Reduction for Puerto Rico

Puerto Rico is required to implement an asset verification program by January 1, 2026. If Puerto Rico does not have an asset verification program, starting January 1, 2026, the regular FMAP rate for Puerto Rico would be reduced by the following percentage points in each calendar quarters of the specified fiscal year: 0.12 percentage points for FY2026; 0.25 percentage points for FY2027; 0.35 percentage points for FY2028; and 0.50 percentage points for FY2029 and each year thereafter. These FMAP reductions are similar to the asset verification requirement and potential FMAP reductions that have been in place for the 50 states and DC since January 1, 2021.

## Reporting Requirement

For FY2020 and FY2021, the territories were required to submit annual reports to Congress no later than 30 days after the end of the fiscal year to describe how the territories have increased access to health care under Medicaid using the additional Medicaid funding and the increased FMAP rates. This requirement was recently extended for FY2023 through FY2027 for Puerto Rico, and FY2023 and subsequent years for American Samoa, CNMI, Guam, and USVI.

For additional information about Medicaid financing for the territories, see CRS Report R47601, *Legislative History of Medicaid Financing for the Territories*.

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