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Executive Director

BY ELECTRONIC MAIL

February 28, 2023

Mr. Francisco Parés Alicea
Secretary
Department of the Treasury

Ms. Edna Marín Ramos
Executive Director
Puerto Rico Health Insurance Administration

Mr. Juan C. Blanco Urrutia
Executive Director
Office of Management and Budget

Dear Mr. Parés Alicea, Ms. Marín Ramos, and Mr. Blanco Urrutia,

On December 29, 2022, President Biden signed into law H.R. 2617, also known as the “Consolidated Appropriations Act of 2023” (“H.R. 2617” or the “Act”). The Act assigns \$3.275 billion to Puerto Rico for Federal Fiscal Year (“FFY”) 2023 and extends the increased Federal Medical Assistance Percentage (“FMAP”) of 76% for Puerto Rico’s Medicaid program through September 30, 2027. Additionally, H.R. 2617 grants a \$300 million appropriation during FFY2023 if the Secretary of Health and Human Services (the “Secretary”) certifies that Puerto Rico’s Medicaid program establishes a reimbursement floor, implemented through a directed payment arrangement plan, for physician services covered under the Medicare Part B fee schedule, in the Puerto Rico locality, established under Section 1848(b) of the Social Security Act. The reimbursement floor must be not less than 75% of the payment that would apply to such services if they were furnished under Part B of Title XVIII of the Social Security Act during FFY2023. In addition, a further increase of \$75 million may be granted if the Secretary determines Puerto Rico fully satisfies the requirements set forth in paragraph (7)(A)(i) of Section 1108(g) of the Social Security Act.

Given that the Fiscal Year (“FY”) 2023 General Fund (“GF”) Budget for the Puerto Rico Health Insurance Administration (“ASES,” for its Spanish acronym) was certified prior to the enactment of H.R. 2617, the FY2023 GF Budget did not account for the additional federal appropriations or

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increased FMAP funding. Nevertheless, the possibility of such increased funding was contemplated by the Certified 2022 Commonwealth Fiscal Plan, which provides that “[i]n the event that the amount of federal funds expected to become available during any future fiscal year changes, and, depending on the conditions imposed on the federal funds granted, the Oversight Board reserves the right to revise the projected General Fund appropriation for ASES appropriately.”¹ Accordingly, based on the enactment of H.R. 2617, the Oversight Board has revised the projected GF appropriation for ASES to reflect the additional funding provided by the Act.

Please be advised that ASES’ total GF Budget appropriation for FY2023, after considering all other cost concepts (including PayGo), should be amended from \$814.685 million to \$565.526 million. To the extent that the full appropriation has already been transferred to ASES, the Oversight Board hereby requests that the Puerto Rico Department of Treasury withhold any future disbursements to ASES and coordinate with ASES the return of the surplus funds already appropriated less the withheld funds. Any such surplus funds must be transferred back to the Government to its “Unallocated Capital Expenditures – Clawback Medicaid” account under the Custody of the Office of Management and Budget.

Consistent with past practice, the \$249.159 million in funds impacted by the Oversight Board’s decision must be used by the Government to continue strengthening the Island’s healthcare infrastructure and to address other priorities identified at the health agencies. Examples of these priorities include but are not limited to: (1) improvements to public hospital information technology (IT), such as electronic health records, technology infrastructure, etc.; (2) purchase of new equipment (*e.g.*, magnetic resonance imaging (MRI) machines, patient beds, generators, among others); (3) settlement of past due debts or lawsuits (*i.e.*, utilities, 330 Centers); (4) health facility infrastructure improvements including design, construction costs, and strategic/technical advisory services; and (5) state fund matching for capital projects funded by federal funds.

The Oversight Board looks forward to continuing working with you to accomplish the requirements and goals of PROMESA for the benefit of the people of Puerto Rico.

Sincerely,



Robert F. Mujica Jr.
Executive Director

CC: Hon. Omar Marrero Díaz

¹ Certified 2022 Commonwealth Fiscal Plan at 52-53.