



Medicaid in the U.S. Territories: Considerations for Long-Term Financing Solutions

Medicaid and CHIP Payment and Access Commission

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Overview

- Overview of territory Medicaid programs
- Medicaid financing and spending
- Current financing situation
- Decision points for congressional action in the short term
- Long-term solutions under consideration

Overview of Territory Medicaid Programs

Medicaid in the Territories

- Territories are generally considered states for the purposes of Medicaid unless otherwise specified
- Guam, Puerto Rico, and the U.S. Virgin Islands have similar program structures as states
- The Commonwealth of the Northern Mariana Islands (CNMI) and American Samoa operate their Medicaid and CHIP programs under a unique Section 1902(j) waiver
 - Allows Secretary to waive almost any Medicaid requirement
- Territories face unique challenges that affect their Medicaid programs
- Detailed fact sheets for each territory are available at <https://www.macpac.gov/publication/medicaid-and-chip-in-the-territories/>

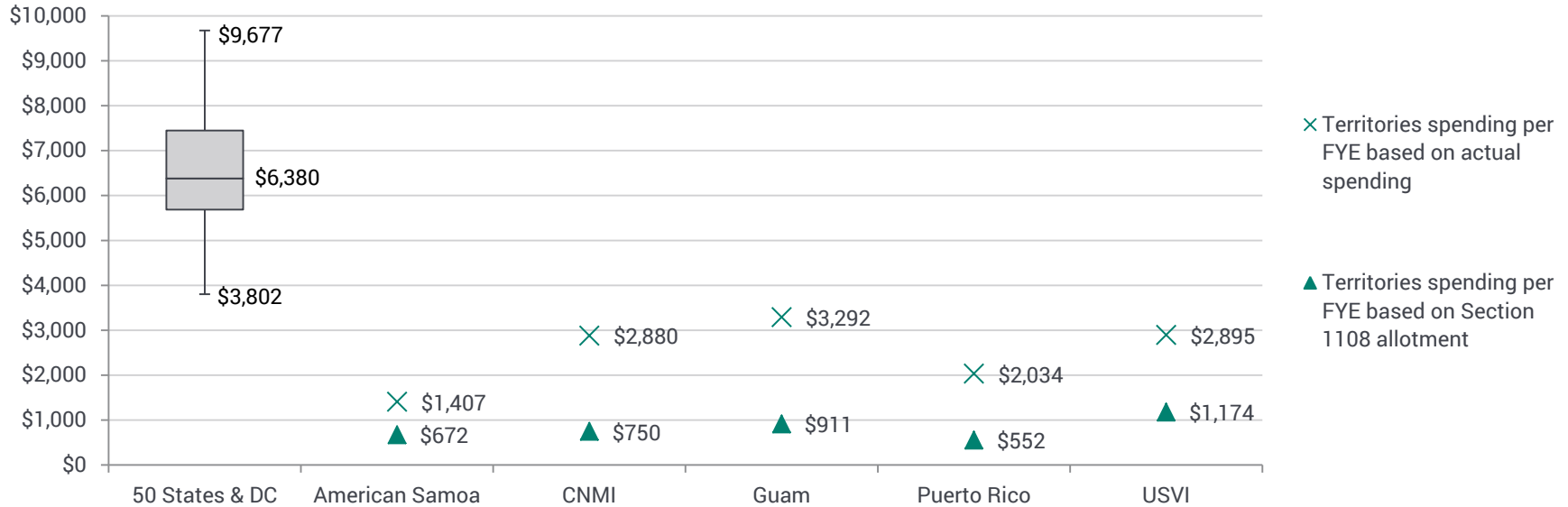
Financing Structure

- Capped allotment financing structure
 - Annual allotments specified in Section 1108(g) of the Social Security Act (i.e., Section 1108 cap)
 - Federal medical assistance percentage (FMAP) specified in statute at 55 percent
- Financing arrangement has historically been insufficient to fund territory Medicaid programs
- Territories rely on time-limited increases in federal Medicaid funds and FMAPs

Spending

- Puerto Rico spending makes up the vast majority (>90 percent) of federal Medicaid spending in the territories
- Spending per full-year equivalent (FYE) enrollee is substantially lower in each territory than in the 50 states and the District of Columbia
- Without temporary additional funds, spending would be much lower, given the amount permitted under typical Section 1108 allotments

Medical Assistance Spending per FYE, States vs. Territories, FY 2019



Notes. FY is fiscal year. FYE is full-year equivalent enrollee. CNMI is Commonwealth of the Northern Mariana Islands. DC is the District of Columbia. USVI is U.S. Virgin Islands. State spending excludes spending for long-term services and supports, which territories generally do not provide. Territories spending per FYE based on actual spending represents actual FY 2019 spending, while territories spending per FYE based on Section 1108 allotment is the amount territories could have spent if their spending had been limited to their Section 1108 allotment without any increased federal funding. It also assumes the same level of enrollment, the entire allotment was used for medical assistance expenditures, and the 55 percent FMAP remained in place. Spending has been adjusted to realign prior period adjustments back to the period to which they apply and may not match spending reported in other figures. For example, the USVI reported \$137.7 million in medical assistance expenditures on the CMS-64 financial management report for FY 2019, but \$55.3 million was to adjust expenditures reported in prior years. The amount shown here for the USVI reflects the \$82.4 million that was applicable to FY 2019, which is the amount that would have been applied to the FY 2019 allotment. For more information on prior period adjustments, see MACPAC's issue brief [Interpreting Trends in Spending Data: Effect of Prior Period Adjustments](https://www.macpac.gov/wp-content/uploads/2020/06/Interpreting-Trends-in-Spending-Data-Effect-of-Prior-Period-Adjustments.pdf) at <https://www.macpac.gov/wp-content/uploads/2020/06/Interpreting-Trends-in-Spending-Data-Effect-of-Prior-Period-Adjustments.pdf>.

Sources. MACPAC, 2021, analysis of FY 2019 CMS-64 financial management report as of March 10, 2021 and CMS-64 enrollment reports as of October 27, 2020.

Financing for FYs 2020 and Future Years

Temporary Increase in Federal Funds for FYs 2020 and 2021

- Congress provided additional federal Medicaid funds or enhanced FMAPs on several occasions between 2010 and 2020
- The Further Consolidated Appropriations Act, 2020 (P.L. 116-94) and the Families First Coronavirus Response Act (FFCRA, P.L. 116-127):
 - Raised each territory's Section 1108 cap for FYs 2020 and 2021
 - Raised territory FMAPs for FYs 2020 and 2021: 76 percent for Puerto Rico and 83 percent for other territories (plus 6.2 percentage point bump during COVID-19 public health emergency)

Possible Permanent Increase Beginning in FY 2022

- Changes made to Section 1108(g) by P.L. 116-94 and FFCRA appear to have changed the base years for calculating future Section 1108 allotments
 - FY 2020 for Puerto Rico
 - FY 2021 for other territories
- Would effectively raise Section 1108 allotments in perpetuity
- Does not affect FMAP

Territory Section 1108 Allotments, FYs 2019–2022 (Millions)

Territory	2020	2021	2022	
			Initial interpretation of Section 1108(g) (estimated) ¹	Anticipated interpretation of Section 1108(g) (estimated) ²
American Samoa	\$86.3	\$85.6	\$13.0	\$87.9
CNMI	63.1	62.3	7.2	64.0
Guam	130.9	129.7	19.2	133.2
Puerto Rico	2,716.2	2,809.1	392.5	2,943.0
USVI	128.7	127.9	19.6	131.4

Notes: FY is fiscal year. Section 1108 allotments reflect the annual federal allotments (or caps) for federal funds that territories receive under Section 1108(g) of the Social Security Act. P.L. 116-94 is the Further Consolidated Appropriations Act of 2020. FFCRA is the Families First Coronavirus Response Act (P.L. 116-127). CNMI is Commonwealth of the Northern Mariana Islands. USVI is U.S. Virgin Islands. In addition to the amounts shown, Puerto Rico was eligible to receive \$200 million per FY 2020 and FY 2021 provided that the Secretary certifies that Puerto Rico established a payment floor for physician services of at least 70 percent of the payment rates that would apply for such services under Medicare Part B. Puerto Rico implemented this increase in 2020 (ASES 2020a).

¹ Estimated by trending FY 2020 allotments (prior to enactment of the Further Consolidated Appropriations Act of 2020) by 2.3 percent (percent change in the medical component of the Consumer Price Index for All Urban Consumers for the 12-month period ending March 2019).

² Centers for Medicare & Medicaid Services (CMS) estimates provided to MACPAC on September 17, 2021. Estimates use FY 2020 as the base year for Puerto Rico's allotment, and FY 2021 for other territories.

Source: Medicaid and CHIP Payment and Access Commission (MACPAC). 2021. Medicaid and CHIP in the U.S. territories. February 2021. Washington, DC: MACPAC. <https://www.macpac.gov/publication/medicaid-and-chip-in-the-territories/>.

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Anticipated Temporary FMAP Increase and Review of Section 1108 Interpretation

- Continuing resolution (CR) language extending current FMAP levels
- Directs the U.S. Government Accountability Office (GAO) to review CMS's interpretation of Section 1108(g)(3)(E) (i.e., use of FY 2020 and FY 2021 as base years)

Longer-Term Solutions under Consideration

Decision Points for Congress in the Medium Term

- Likelihood of further action on Section 1108 allotment levels may depend on outcome of GAO review (i.e., whether GAO agrees with CMS interpretation)
 - Congress may accept higher allotment levels in perpetuity
 - Congress may modify allotment levels, make increases temporary, or both
- Adjusting FMAP levels beyond term of CR
- Program improvement requirements

Transition to a Permanent, State-Like Financing Structure

- MACPAC, lawmakers, and others have discussed the need for a permanent solution to territories' Medicaid financing challenges
- Questions about pairing financing changes with other reforms
 - Modest program improvements
 - Broad expectation that territory Medicaid programs become more aligned with states (e.g., provide all mandatory benefits, cover all mandatory populations)

Design Considerations: Financing

- Section 1108 allotment vs. open-ended financing
- Statutorily specified FMAP vs. FMAP determined using state formula
- Timeline for changes
 - Transition period vs. immediate change

Design Considerations: Alignment with State Medicaid Programs

- Applicability to territories
 - Whether policy changes and new requirements should apply equally to all five territories, or be tailored to each
- Feasibility of program changes
 - Considering costs, administrative effort, desirability
- Section 1902(j) waiver

Design Considerations: Alignment with State Medicaid Programs Cont.

- Timeline for changes
 - Period to comply with new requirements and implement policy changes
- Incentives and penalties
 - Enhanced FMAPs for certain activities vs. FMAP penalties for failure to meet requirements
- Flexibility for extenuating circumstances
 - E.g., extensions on deadlines to avoid FMAP penalties in the event of a natural disaster



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