



March 5<sup>th</sup>, 2018

The Honorable Alex Azar  
Secretary of the US Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

cc/ Seema Verma, CMS Administrator  
Demetrios Kouzoukas, Principal Deputy Administrator for Medicare and Director  
Jennifer Wuggazer Lazio, F.S.A., M.A.A.A., Director of the Part C & D Actuarial Group, OACT

***Re: Comments and Proposals to the CMS Part C & D Advance Notice and Draft Call Letter 2019***

Submitted electronically to <https://www.regulations.gov/>, Docket Number "CMS-2017-0163"

The *Puerto Rico Healthcare Community* ("the Community") acknowledges the attention and work that CMS staff and HHS leadership have devoted to the unique case of Puerto Rico and the Medicare Advantage (MA) and Part D programs in recent years. However, the steps taken are insufficient to address clear foundational problems and the increasing disparity in Puerto Rico's MA funding. The comments and proposals outlined below recognize some positive elements included in the Advance Notice 2019, but most importantly reiterate the urgent need to finalize meaningful policies in the Final Announcement and Call Letter to be released next April 2<sup>nd</sup>, 2018.

Multiple community organizations, including the Medicaid and Medicare Advantage Products Association of Puerto Rico (MMAPA), have presented new proposals, evidence, and updated analysis to support a meaningful positive adjustment in the MA rates for Puerto Rico counties in 2019. These include an "Emergency Letter" sent to CMS Administrator Verma last October 20<sup>th</sup>, 2017, and a letter and supporting package sent to CMS Deputy Principal Administrator Demetrios Kouzoukas last November 21<sup>st</sup>, 2017. Letters supporting administrative action with MA rates in Puerto Rico have also been sent by 16 members of the US House of Representatives led by Rep. Jenniffer González (December 18<sup>th</sup>, 2017), 6 US Senators (December 22<sup>nd</sup>, 2017), and the Governor of Puerto Rico Ricardo Rosselló (January 5<sup>th</sup>, 2018).

All these communications have two points in common: (1) there is an anomalous historic situation that makes MA rates in Puerto Rico uniquely low, and (2) HHS and CMS should take immediate administrative action to make meaningful adjustments that can mitigate the harmful funding gap for MA in Puerto Rico. Historic statutory differences, along with market and data anomalies, are the primary causes of the deficient MA rates that persist today.

**Main Proposals:**

1. HHS and CMS should use administrative flexibility to meaningfully adjust MA rates in Puerto Rico for CY2019 in the Final Announcement and Call Letter for CY2019, after recognizing new evidence of data anomalies and the harmful effects of the recent natural disaster.

2. HHS and CMS should establish a proxy methodology for the 2019 MA benchmark or a national floor for the Average Geographic Adjustment (AGA floor) of 0.70 for all counties in MA rate-setting. The latter would move PR counties to an AGA closer to other Caribbean Territories and protect all the counties in the Nation from cases of extremely low AGAs resulting from clear data deficiencies and fluctuations. Implementing an AGA floor now will prevent further erosion and irreparable harm to the healthcare system. A similar approach should be used to calculate the ESRD benchmark to ensure resources are available to properly care for this vulnerable population.
3. CMS can phase-in the impact of the proposed policy for MA benchmarks in a period of 2-3 years, starting in 2019, and monitor closely the effects on the system. MA plans in Puerto Rico are committed to work with CMS in defining additional bid requirements, bid to benchmark ratio parameters or monitoring tools to measure the impact of the adjustment in relation to provider compensation and development of value-based payment models.
4. County rates in Puerto Rico are such outliers in 2018 that the level of payment proposed would still leave them at least 15% or more below the average MA rates in the state with the lowest average. The additional funding will provide the necessary inflow to support recovery efforts for our health system while remaining as the lowest cost option in the Nation and will also help address migration of providers and patients, ultimately avoiding unnecessary costs to the Federal government.
5. Puerto Rico has higher costs of living than the US average. The unsustainably low pricing of health care is partly the result of historic anomalies in Medicare that continue to push compensation down, while accommodating increases in the price of other inputs like prescription drugs. There is precedent in CMS regulation of the use of proxy factors and alternative methods when data elements of a statutory formula are simply not present or deficient. Puerto Rico MA rates after the ACA are a clear case, and a step to break the spiral to the bottom is needed now more than ever. Given the socio-economic scenario, and the recent natural disaster, Puerto Rico MA plans are also increasingly spending additional resources to tackle social determinants of health. Transportation, care coordination, community outreach are efforts that have become harder and costlier, but also more important for MA beneficiaries in PR.
6. The Puerto Rico Community is appreciative of policy adjustments already taken by the Administration. We support CMS proposal to continue to provide Puerto Rico plans special consideration due to the program inequities in the Star rating measure, in particular the proposed hold harmless methodology due to the impact of the natural disaster. We also support that the zero claim adjustment implemented in 2017 and 2018 remain until a temporary solution to the data anomalies can be implemented. Finally, we also support the 2018 decision to assign double bonus status to most counties in the Island and would request CMS to evaluate expanding the policy to cover all 78 municipalities. **However**, new evidence studied this past year suggests that these current adjustments are far from enough. The continued deterioration requires a higher-impact policy action to stop the harmful and increasing funding gap.

With close to 50% of the health care expenses in Puerto Rico tied to the Medicare Advantage program, it is inevitable that breaking the spiral of underfunded healthcare must start with a solution in MA rates. Puerto Rico also has the highest MA penetration in the nation (over 570,000, 75%), and the largest D-SNP (*Platino*) program that integrates Medicare and Medicaid with approximately 275,000 beneficiaries.

Moreover, the program has the most developed administrative structure, with proven pay for performance methods, quality measures, as well as fraud, waste and abuse mechanisms.

The positive pillars created by the MA program in Puerto Rico should not be a deterrent to the implementation of concrete solutions for the deteriorating scenario of the MA rates. As the recent natural disaster validated, Puerto Rico offers an unstable and fragile platform for providers who continue to flee to the US mainland, while infrastructure keeps falling behind.

We are committed to the continued improvement in the quality of the Medicare Advantage program in Puerto Rico, demonstrated by the positive progress made through some particularly challenging circumstances in recent years. With the fair and needed adjustments we have been proposing, there is no doubt **Puerto Rico can continue to make progress towards operating the most cost-effective *high quality* MA and Part D programs in the Nation.** The April 2<sup>nd</sup> Final MA Announcement and Call Letter for CY2019 is the most immediate opportunity for HHS and CMS to take meaningful administrative action to mitigate ACA cuts and enhance access and benefits for over 570,000 Medicare Advantage beneficiaries in Puerto Rico.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Luis A. Pérez-Moreno', with a stylized flourish at the end.

Luis A. Pérez-Moreno, M.D.  
President  
FARO, LLC