



Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Benefits



National Council on Disability

May 25, 2022

National Council on Disability (NCD)
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Washington, DC 20004

Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Benefits

National Council on Disability, May 25, 2022
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National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

Letter of Transmittal

May 25, 2022

President Joseph R. Biden Jr.
The White House
1600 Pennsylvania Avenue NW
Washington DC 20500

Dear Mr. President:

For a community of over 687,000 people with disabilities we have reneged on the federal promise to bring them into the economic and social mainstream simply because of where they reside. The conditions which drove the enactment of the Americans with Disabilities Act (ADA), over 31 years ago, remain starkly present for this community of people who are much poorer, have far less education and have less social and community life than other Americans living elsewhere regularly enjoy, simply because they live on the beautiful island of Puerto Rico.

In this report, *Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Services*, the National Council on Disability (NCD) highlights the disparate treatment of this community of people with disabilities in federal programs and services. The absence of specific safety net programs available to eligible people with disabilities residing in any jurisdiction on the mainland or in certain of the other territories, and the inadequate or nonexistent funding of other disability programs and services for residents with disabilities in Puerto Rico creates devastating economic hardship on Puerto Rican residents with disabilities, the most vulnerable group of people residing on the island.

Puerto Rico's poverty rate is a staggering 44.1%, double the poverty rate of Mississippi, the most impoverished U.S. state. 22% of Puerto Rican residents of all ages have a disability, slightly under the 26% prevalence rate for all of the United States. The highest prevalence of disability among Puerto Rican residents is mobility disability with the prevalence rate of 12.6%, almost double the prevalence rate of those residing in the states; and the incidence of low vision or blindness in Puerto Rico is four times the rate of those in the states. These statistics are especially troubling given the disparate treatment of residents with disabilities there under the federal safety net programs for people with disabilities and given the broader economic crisis affecting Puerto Rico overall.

The report examines failing federal public policies, programs, and practices in Puerto Rico across the areas of education, employment, financial assistance and incentives, health care, long-term services and supports, transportation, housing, as well as disaster relief – each different segments of society that the promise enshrined in the ADA was deliberately intended to address.

Safety net programs such as Puerto Rico's nutritional assistance program and Medicaid, are funded by block grants, resulting in financial constraints given the island's economic condition, which require the Commonwealth to limit program eligibility and services. A Puerto Rican resident with a disability is not eligible for Supplemental Security Income and the breadth of Medicare coverage is not equal to that offered to its enrollees in the states. Moreover, because of the maritime transportation restrictions of the Jones Act, durable medical equipment (DME) and replacement parts for DME are more expensive on the island and difficult to attain. Federal funding for education, employment, housing, and transportation services in Puerto Rico are allocated by the same funding formula as is used for the states. However, the current formula factors do not take into consideration the high level of poverty, incidence of disability, and the island's financial constraints. Moreover, four years post-hurricane Maria, 71% of disaster relief and recovery operations funds still have not reached communities on the island and thousands of houses are still covered with blue tarps.

Puerto Rican residents are U.S. citizens. The promise of the ADA was never conditioned on zip code. For the over 687,000 people with disabilities residing on the island (a community that is larger than the total population of residents in Wyoming or Vermont), we must end this disparate treatment.

We look forward to the opportunity to brief you and your Administration on these findings and our recommendations.

Most respectfully,

A handwritten signature in black ink, appearing to read "Andrés J. Gallegos", with a long horizontal flourish extending to the right.

Andrés J. Gallegos
Chairman

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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Executive Summary

The Commonwealth of Puerto Rico is a U.S. territory and Puerto Rican residents are American citizens. However, Puerto Rican residents with disabilities are not treated equally as compared to their counterparts residing in the United States and in certain other territories in terms of access to, participation in, and benefits received under federal programs. This disparate treatment is evident when benefits are compared for people with disabilities (PWD) living in Puerto Rico and PWDs living on the mainland and other U.S. territories. While some of the same federal programs are available to residents of Puerto Rico with disabilities, the amount of appropriated funds for the federal safety net programs per person is considerably lower when compared to the funds provided for the same programs on the mainland and other U.S. territories.

In response to the funding disparity, it has been argued that Puerto Rican residents do not pay federal income tax, therefore they should not be eligible for safety net programs. While it is true, Puerto Rican residents do not pay federal

income taxes, Puerto Rican residents do pay federal payroll taxes, and Puerto Rican residents working for federal agencies must submit federal income tax returns. In fact, Puerto Rican taxpayers contribute more to the federal

treasury than taxpayers in six states and the Northern Mariana Islands.¹ Regardless, Puerto Rican residents are American citizens and should have access to the same benefits as any American citizen, regardless of their zip code.

This report examines the disparate treatment of Puerto Rican residents with disabilities in federal programs. NCD examines the disparity between residents with disabilities in the states with the highest population of Puerto Ricans, namely, Florida, New York, Pennsylvania, New Jersey, and Massachusetts, as well as other U.S. territories. The federal programs analyzed in this report are those that combined, create a safety net for people with disabilities: Medicaid, Medicare, Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), and Supplemental Nutrition Assistance Program

Puerto Rican residents with disabilities are not treated equally as compared to their counterparts residing in the United States and in certain other territories in terms of access to, participation in, and benefits received under federal programs.

(SNAP)/Nutritional Assistance Program (NAP). In addition, this report examines disparities in the cost and availability of durable medical equipment (DME), how Puerto Rican residents with disabilities fair in employment, and the availability of accessible housing and transportation. This report also examines disparities in the federal response to natural disasters in Puerto Rico compared to those in the states.

NCD found funding and coverage disparities in the following federal programs: Medicare, Medicaid, SSI and SNAP/NAP. Significant disparities were found in access to and prices of DME. NCD is concerned over the adverse consequences to people with disabilities due to delayed access to federal aid from recent emergencies. Before Puerto Rico was given access to appropriated emergency funds, additional restrictions and requirements were placed on the territory prior to disbursement. This furthered the delay of much-needed resources and negatively impacted an already beleaguered island.

NCD report findings and recommendations were determined by data collection via literature review, interviews of stakeholders including persons with disabilities, and interviews with state and federal agencies.

Some of the findings and recommendations garnered from the report are:

- NCD recommends all federal and state agencies, as well as public and private universities, include data on Puerto Ricans

with disabilities living on the island and other territories in data collection to improve accountability so as to ensure that appropriate resources are provided to ensure equity to programs that allow PWDs the opportunity to achieve economic independence (for example, data collection initiatives collected by the Census Bureau, National Health Interview Survey, and State of the States).

- NCD recommends Congress repeal the provision within the Jones Act, that restricts coastwise trade on U.S. flagged vessels, for durable medical equipment covered under Medicare Part B (such as manual wheelchairs, power wheelchairs and components and replacement parts, scooter and component parts and replacement parts, patient lift and transfer equipment, patient ventilators, portable oxygen, foam, gel, innerspring and air mattresses, continuous positive airway pressure (CPAP) devices, shower chairs and commode chairs, and suction pumps).
- NCD recommends Congress amend the Social Security Act to replace the Medicaid block grant program in Puerto Rico and other U.S. territories with an uncapped federal matching system, equivalent to the Medicaid program provided to U.S. residents.
- NCD recommends Congress amend Title XVI of the Social Security Act to require SSI benefits be provided to all eligible U.S.

Before Puerto Rico was given access to appropriated emergency funds, additional restrictions and requirements were placed on the territory prior to disbursement.

citizens, to include residents of Puerto Rico and U.S. territories.

- NCD recommends Congress amend the Food Stamp Act to include Puerto Rico, the Northern Mariana Islands and American Samoa in the SNAP program, as has been done for Guam and the U.S. Virgin Islands (USVI).
- NCD recommends Congress mandate federal agencies that use funding formulas recalculate their formulas to mitigate

the impact of high poverty rates and hence a lower tax base which impacts the grantee's ability to utilize the funds for programs and services as intended. Equitable redistribution of funds to grantees will mitigate the unintended disparate impact of the current method by providing the appropriate funding to all states and territories to ensure programs and services are adequately funded and provide similar benefits to all U.S. citizens.

Acronym Glossary

AABD	Aid to the Aged, Blind and Disabled
AAPD	American Association of People with Disabilities
ABD	Aged, Blind and Disabled Program
ABLE	Achieving a Better Life Experience Act
ACA	Affordable Care Act
ADSEF	Family Socioeconomic Development Administration (ADSEF for its acronym in Spanish)
AIVR	American Indian Vocational Rehabilitation
AJC	American Job Centers
AMA	Metropolitan Bus Authority
AMSI	Alianza Municipal de Servicios Integrados
ASORE	Puerto Rico Restaurants Association (ASORE for its Spanish acronym)
AT	Assistive Technology
ATI	Puerto Rico Integrated Transportation Authority (ATI for its Spanish acronym)
ATM	Maritime Transport
BRFSS	Behavioral Risk Factor Surveillance System
CCPA	Puerto Rico Society of CPAs (CCPA for its Spanish acronym)
CDBG	Community Development Block Grant
CDBG DR	Community Development Block Grant Disaster Recovery
CDC	Centers for Disease Control and Prevention
CEDD	State Council on Developmental Disabilities (CEDD for its Spanish acronym)
CIL	Center for Independent Living
CPD	Community Planning and Development
CMS	Centers for Medicare and Medicaid Services
CUD	United Retailers Association (CUD for its Spanish acronym)
DDA	Developmental Disabilities Agencies
DLRH	Department of Labor and Human Services
DME	Durable Medical Equipment
DOH	Department of Housing
DOL	Department of Labor
DOT	Department of Transportation
DPI	Puerto Rico Protection and Advocacy Service, Ombudsman for PWD (DPI for its Spanish acronym)

DTOP	Puerto Rico Department of Transportation and Public Works
ED	U.S. Department of Education
ELIL	Extremely Low-Income Limit
EN	Employment Network
ESSA	Every Student Succeeds Act
ESSER	Elementary and Secondary School Emergency Relief Fund
FCO	Federal Coordination Office
FHWA	Federal Highway Administration
FMAP	Federal Matching Assistance Percentage
FNS	Food and Nutrition Service
FPL	federal poverty level
FTA	Federal Transit Administration
GAO	Government Accountability Office
GEER	Governor's Emergency Education Relief Fund
HHS	U.S. Department of Health and Human Services
HUD	U.S. Department of Housing and Urban Development
IDD	Intellectual and developmental disabilities
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Educational Plan
LEA	Local Education Agencies
LIL	Low Income Limit
LIS	Low Income Subsidy program
MA	Medicare Advantage
MAP-21	Moving America Plan-21
MAVI	Movement for Achieving Independent Living (MAVI for its Spanish acronym)
META-PR	Measurement and Evaluation for Educational Transformation Test
MIDA	Industry and Food Distribution (MIDA for its Spanish acronym)
N-CATT	National Center for Applied Transit Technology
NCHS	National Center for Health Statistics (NCHS)
NHIS	National Health Interview Survey (NHIS)
NHTS	National Household Travel Survey
NSCH	National Study of Children's Health (NSCH)
OSEP	Office of Special Education Programs
PAN	Nutritional Assistance Program (PAN for its Spanish acronym)
PCBI	Public Corporation for the Blind
PDL	Preferred Drug List
PHA	Puerto Rico Public Housing Administration
PRATP	Puerto Rico Assistive Technology Program
PRDCRN	Puerto Rico Disability Community Relief Network

PRDE	Puerto Rico Department of Education
PRHTA	Puerto Rico Highways and Transportation Authority
PROMESA	Federal Oversight and Management Board
PRP	Provisional Remedy Program
PR-PHA	Public Housing Administration in Puerto Rico
PR UCEDD	Puerto Rico University Center for Excellence in Developmental Disabilities
PWD	People with Disabilities
PYMES	Small to mid-size businesses (PYMES for its Spanish acronym)
RESTART	Immediate Aid to Restart School Operations Program
RFP	Request for Proposal
RSA	Rehabilitation Service Administration
RSVFP	Randolph Sheppard Vending Facilities Program
SAEE	Secretaría Auxiliar Educación Especial (Special Education Assistant Secretary)
SDOH	Social Determinants of Health
SE	Supported Employment Program
SLTT	State and Local Tribes and Territories
SNAP	Supplemental Nutrition Assistant Program
SPP	Strategic Plan or State Performance Plan
SSDI	Social Security Disability Insurance
SSI	Supplemental Security Income
STIP	Statewide Transportation Improvement Program
SVRA	State Vocational Rehabilitation Administration
TPFA	Third-Party Fiduciary Agent
TTW	Ticket to Work, Employment Network
TU	Urban Train (TU for its Spanish acronym)
USDA	U.S. Department of Agriculture
USVI	U.S. Virgin Islands
VR	Vocational rehabilitation
VRA	Vocational Rehabilitation Administration
VLIL	Very Low-Income Limit
WHO	World Health Organization
WIB	Workforce Investment Boards
WIOA	Workforce Innovation and Opportunity Act
WIPA	Work Incentives Planning and Assistance Program
WOTC	Work Opportunity Tax Credit



Given Puerto Rico's high prevalence of poverty and disability, the disparate funding for essential safety net programs does not allow Puerto Rico to provide its residents with disabilities much needed services and supports.

Introduction

Puerto Rico Brief History

On December 10, 1898, Puerto Rico became a U.S. territory under the “Treaty of Paris.” The Jones-Shafroth Act of 1917 (1917 Jones Act) granted U.S. citizenship to persons born on the Island and established the framework for the Puerto Rican government. The 1917 Jones Act also created the Bill of Rights for Puerto Rico and established the office of the Resident Commissioner in Congress for four-year terms. This position allows participation in the House of Representatives in Congress, without voting rights. Puerto Rico officially became a U.S. commonwealth in 1952, which allowed the island to create its own constitution.²

Puerto Rico’s economy is impacted by the various federal regulations and policies aimed to propel U.S. economic growth. The results garnered from these policies and regulations have not always benefited the residents of Puerto Rico. For instance, The Internal Revenue Code (IRC), Section 931, enacted in the 1920s, granted U.S. corporations tax-free

exemptions for their overseas operations until they repatriated their earnings to the United States. In 1976, IRC Section 931 was repealed and replaced by IRC Section 936, designed to incentivize subsidiaries of U.S. corporations to settle on the Island and to repatriate their profits to their parent companies without paying federal taxes. This resulted in a boom to the Puerto Rico economy. Section 936 was repealed in August of

1996, companies were granted a 10-year grace period for companies that remained on the island.^{3,4}

The repercussions from the repeal of IRC Section 936 are still visible on the island. Once these tax credits were eliminated, Puerto Rico’s economic growth slowed, and its national

debt rapidly increased. In 2015, Puerto Rico’s governor, Alejandro García Padilla, announced that the commonwealth could no longer meet its sizable debt, a debt of almost \$70 billion.⁵ Public Law 114-187, the Puerto Rico Oversight Management and Economic Stability Act (PROMESA), was passed by Congress on June 30, 2016. PROMESA created a structure to

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exercise federal oversight over the fiscal affairs of Puerto Rico, and potentially Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands (USVI).⁶ It established an Oversight Board which has broad financial control over Puerto Rico, created procedures for adjusting debts accumulated by the Puerto Rican government and its instrumentalities, and for debts of other territories and expedited approvals of key energy projects and other “critical projects” in Puerto Rico.⁷

In September 2017, Puerto Rico’s economic troubles were compounded when Hurricane Maria made landfall on the island and decimated its infrastructure. In Maria’s aftermath, some 3.4 million American citizens found themselves in a humanitarian crisis, facing a destroyed infrastructure, power outages for over six months, shortages of water, food, fuel, and an uncertain future.⁸ And then, in January 2020, Puerto Rico suffered a 6.4 magnitude earthquake and continuing aftershocks in the Southwestern part of the Island, which destroyed homes and businesses further weakening an already dire economy and creating significant impact to the health and wellbeing of the residents of Puerto Rico. Later, in March 2020, Puerto Rico, as was the rest of the world, was hit with the COVID-19 pandemic. The pandemic brought business restrictions and placed a further strain on health and medical systems. The government took early precautions by shuttering everything except essential services. These

restrictions, though necessary, saddled the island with further economic burdens, leaving thousands unemployed resulting in increased poverty rates further widening the gap to accessible services for PWDs.

As a result of these conditions and threats, the island has experienced an exodus of Puerto Rican residents to the United States. In 2011 and 2012, approximately 55,000 Puerto Ricans per year emigrated from Puerto Rico to the United States. In 2018, 64 percent of Puerto Ricans lived within the United States and 36 percent resided on the island. Although Puerto Ricans have emigrated to the United States for several

generations, the number of departures from 2000 to 2010 (300,000) is the largest wave of migration since the 1950s, when nearly half a million people emigrated to the Continental United States over the decade.

Puerto Ricans represent nine percent of

the Latin American population in the United States and 1.5 percent of the total population of North America. Although the 2010 Census of the United States puts the number of Puerto Ricans living in the United States at about 4.6 million, estimates from 2012 show that the population grew to an estimated 5.6 million in 2017, almost double the amount residing on the island.⁹ Migration has become an intrinsic component of Puerto Rican culture. As a result of this migration, there has been a substantial exodus of professionals that have left the island to search for job opportunities and better financial conditions, further depressing economic activity by leaving fewer taxpayers,

In 2011 and 2012, approximately 55,000 Puerto Ricans per year emigrated from Puerto Rico to the United States. In 2018, 64 percent of Puerto Ricans lived within the United States and 36 percent resided on the island.

thus placing the island in a precarious financial situation. There is a shortage in the supply of medical doctors, educators, and professionals that form the brain trust of the island, further exacerbating availability of services for PWDs.

Demographic Data of Puerto Rico

In 2019, Puerto Rico’s population was 3,193,694. Approximately 687,000 people, which makes up 21.7 percent of Puerto Rico’s residents, have a disability.¹⁰ In 2018, 22.2 percent of females of all ages and 21.0 percent of males of all ages in Puerto Rico reported a disability.¹¹

On September 16, 2020, the CDC published the Disability & Health U.S. Profile Data for Puerto Rico (adults over 18 years of age). The

following table illustrates the differing disabilities and the prevalence between the U.S. mainland and Puerto Rico.¹² The data clearly demonstrates

Puerto Rico residents have a higher percentage and prevalence for all types of disabilities than those living on the mainland.

Attaining education and employment for people with disabilities in Puerto Rico is bleak. PWDs in Puerto Rico with a high school diploma or equivalent is 29.8 percent, 26.5 percent have some college or an associate degree and only 18.2 percent have a bachelor’s degree or

higher.¹³ Puerto Ricans with disabilities have an employment rate of 23.5 percent compared to 58.5 percent for those without disabilities.^{14,15} In 2018, the percentage of working age people with disabilities in Puerto Rico who were unemployed but actively looking for work was 7.5 percent, whereas those without disabilities

As a result of this migration, there has been a substantial exodus of professionals . . . , further depressing economic activity by leaving fewer taxpayers . . . There is a shortage in the supply of medical doctors, educators, and professionals that form the brain trust of the island, further exacerbating availability of services for PWDs.

was 22.6 percent.¹⁶ In the United States, the unemployment rate of people with disabilities was 12.6 percent in 2020, compared

Table I.1: Types of Disabilities: U.S. Mainland Vs. Puerto Rico

Type of Disability (Adults 18 years of age and older)	United States	Puerto Rico
Mobility: Serious difficulty walking or climbing stairs.	12.9%	21.8%
Cognition: Serious difficulty concentrating, remembering, or making decisions.	11.4%	15.4%
Independent living: Difficulty doing errands alone, such as visiting a doctor’s office or shopping.	7.0%	12.8%
Hearing: Deafness or serious difficulty hearing.	5.6%	7.0%
Vision: Blind or serious difficulty seeing, even when wearing glasses.	4.7%	16.6%
Self-care: Difficulty dressing or bathing.	3.8%	7.0%

to 7.9 percent unemployment for people without disabilities.¹⁷ The general population unemployment rate in Puerto Rico for December 2020 was 9.2 percent.¹⁸

Mississippi is the poorest U.S. state with a poverty level of 19.6 percent¹⁹ whereas Puerto Rico's poverty rate is a staggering 43.5 percent,²⁰ making the island the most impoverished state or territory in the United States. The poverty level of PWDs in Puerto Rico in 2018 was 48 percent, compared to 38 percent of people without disabilities.²¹ "Approximately 44.1 percent of the population live in poverty with over 36 of the 78 municipalities having more than 50 percent of their population living in poverty."²²

Challenges of People with Disabilities in Puerto Rico

The 687,000 PWDs living in Puerto Rico face additional challenges that their disabled counterparts living in the states likely do not encounter. The social conditions in which residents of Puerto Rico with disabilities live make it difficult or impossible for them to achieve autonomy and economic independence. Educational support for PWDs on the island is challenged due to lack of funding and human capital, Puerto Rico's fiscal status, the impact of natural disasters, and the pandemic. All of these factors interfere with the free, public

education that is indispensable for all students but especially for PWDs.

Essential needs like healthcare, access to affordable durable medical equipment (DME), employment opportunities, accessible transportation, and accessible housing are scarce or not available at all. Puerto Rican residents with disabilities are eligible for federal programs. However, funding for many of the government safety net programs for PWDs fall well below those provided in the states. Given Puerto Rico's high prevalence of

Given Puerto Rico's high prevalence of poverty and disability, the disparate funding for essential safety net programs does not allow Puerto Rico to provide its residents with disabilities much needed services and supports.

poverty and disability, the disparate funding for essential safety net programs does not allow Puerto Rico to provide its residents with disabilities much needed services and supports.

PWDs residing in Puerto Rico experience disparate treatment

in federal benefits. Congress generally determines whether Puerto Rico is eligible for federal programs on a case-by-case basis and defines the disparate treatment in law.²³ For example, some funds appropriated for federal programs in Puerto Rico are subject to eligibility restrictions, not imposed upon persons with disabilities in the states or in certain other territories.²⁴ This report identifies the factors that contribute to the disparity of federal programs for residents of Puerto Rico with disabilities and their impact.

Chapter 1: Methodology and Data Collection

Summary

The methodology and data collection identified disparate treatment of Puerto Rican residents with disabilities in certain federal programs and examined the living conditions of Puerto Rican residents with disabilities.

Methodology and Research Design

The research design consisted of a qualitative study through document analysis and in-depth interviews. The literature review identified the five states with the highest percentage of population of Puerto Ricans in order to compare federal benefits available to Puerto Ricans living on the mainland versus those who live on the Island. A comparative technique was used to analyze relevant information and statistical data from programs in the United States that impact services to PWDs. Information was identified based on the results of questions that were used in the key informant interviews and validated by surveys of the National Center for Health Statistics (NCHS), the National Health Interview Survey (NHIS), the National Study of Children's Health (NSCH), the Medical Expenditure Panel Survey, the Current Population Survey, ACS-Puerto Rico, the CDC Behavioral Risk Factor Surveillance System (BRFSS), and the U.S. Census. A document analysis on current public policy was conducted with regard to Puerto Rico, the United States, and the U.S. territories (Sociodemographic

and National Survey Statistical Data, Social Security Policies, Medicaid, Health Coverage, Housing, Food Assistance, Transportation, Independent Life). The qualitative study examined whether there is disparate treatment to Puerto Rico residents in federal programs, the impact of the disparate treatment of Puerto Rico under the Jones Act, and how the application of federal health, educational, and social programs may impact the services provided to PWDs and their families residing in Puerto Rico.

Limitations of the Study

Data is crucial in every stage of research and service provisions. At the time of this report, there is no study that collects information on PWDs in Puerto Rico. There are limited data sets that include the health outcomes in Puerto Rico. There is a lack of concrete, coordinated, comparable data for Puerto Rico and the territories that made federal benefit comparisons among the mainland and the territories cumbersome. Nevertheless, sufficient legal, anecdotal, and empirical evidence exists to support our recommendations.

Chapter 2: Jones Act / Inventory Taxes / Other Taxes

Impact of Taxes on DME

The Jones Act, Puerto Rico's inventory tax, and Puerto Rico's tax structure increase prices and availability of crucial durable medical equipment for residents of Puerto Rico with disabilities. The Jones Act, which puts limitations on the type of vessels that can transport American goods to the island, results in increased prices. Puerto Rico's inventory tax penalizes businesses for retaining inventory and the federal tax structure on the island precludes Puerto Ricans with disabilities from receiving certain federal benefits. **NCD recommends Congress repeal the provision within the Jones Act that restricts coastwise trade on U.S. flagged vessels, for durable medical equipment covered under Medicare Part B (such as manual wheelchairs, power wheelchairs and components and replacement parts, scooters and component parts and replacement parts, patient lift and transfer equipment, patient ventilators, portable oxygen, foam, gel, innerspring and air mattresses, continuous positive airway pressure (CPAP) devices, shower chairs and commode chairs, and suction pumps).**

Additionally, **NCD recommends the legislative assembly of Puerto Rico waive the inventory tax on DME.**

The Merchant Marine Act of 1920, commonly known as the "Jones Act," is a federal law originally intended to improve national security by having a strong merchant marine that would facilitate maritime commerce, be available in times of war or national emergencies, and support industrial shipyards.²⁵ This law was meant to regulate the transportation of goods by water between U.S. ports. The Jones Act requires that:²⁶ vessels be

constructed in the United States, vessels must be registered in the United States and man a U.S. flag, American ownership and control of vessels must be at least 75 percent, and the crew of the ship must be American citizens.

The Jones Act in Puerto Rico

The Jones Act originally applied to every United States territory.²⁷ However, the USVI, American Samoa, and the Northern Mariana Islands, all U.S.

territories, were exempted from the Jones Act in 1922. To compare, shipping costs to the USVI, a mere 179 miles from Puerto Rico, is about half that of shipping costs to Puerto Rico.²⁸

The Jones Act's prescriptive requirements are detrimental to Puerto Rican residents,²⁹ especially

Puerto Rican residents with disabilities who are more likely to live in poverty. The monopoly these American vessels have over the shipping routes in the Caribbean enable them to charge higher rates for shipping.³⁰ The annual costs of transporting goods to Puerto Rico are

\$568.9 million higher because of the Jones Act.³¹

The cost of the Jones Act for Puerto Rico on food and beverage alone is approximately \$367 million per year,³² thus impacting the labor force in 13,250 fewer jobs,

with \$337.3 million lost in wages. Ultimately, the Jones Act burdens an individual Puerto Rican resident \$375 a year.³³

These circumstances exacerbate the living conditions on the island, where the cost of living

is 13 percent higher than 325 geographical areas in the United States, with an annual per capita income of \$12,914,³⁴ which is less than the poorest state in the nation (Mississippi).³⁵ Puerto Rico's food supply is dependent on imports that are subjected to the Jones Act, which results in higher food prices on the island.³⁶

[T]he USVI, American Samoa, and the Northern Mariana Islands, all U.S. territories, were exempted from the Jones Act in 1922. To compare, shipping costs to the USVI, a mere 179 miles from Puerto Rico, is about half that of shipping costs to Puerto Rico.

[T]he cost of living [in Puerto Rico] is 13 percent higher than 325 geographical areas in the United States, with an annual per capita income of \$18,000, which is less than the poorest state in the nation (Mississippi).

PWDs stated that durable medical equipment was more expensive on the island. To verify these assertions, NCD conducted its own search of prices for DME most often purchased by PWDs.

We compared prices in Puerto Rico, in the states, and the other U.S. territories. In Puerto

Rico, we found only 23 DME suppliers—an underwhelming number of suppliers to service the needs of approximately 21 percent of the population of PWDs on the Island. The majority of DME suppliers are located in the metropolitan area, leaving the rural

municipalities void of sufficient suppliers to satisfy the need of PWDs who live outside of the metropolitan area. The other U.S. territories, the USVI, Guam, American Samoa, and the Northern

Mariana Islands only have a total of 12 DME suppliers, whereas there were 193 DME suppliers in Florida alone, 10 times the amount available in Puerto Rico.

When conducting the cost analysis of DME, price quotes were

obtained from medical equipment providers in Puerto Rico versus providers in the states. When looking at basic DME, like manual wheelchairs, walkers, walking canes, grab bars, commodes, rollators, and bath chairs, we found no significant cost difference between Puerto Rico and the states. However, when comparing the costs of

more specialized equipment such as evacuation chairs, CPAP machines, bath lifts, wheelchair lifts, and motorized wheelchairs, the increase in cost differential for goods in Puerto Rico was significant (Table 2.1). When comparing the equipment, the same equipment was quoted to ensure price variances were not due to differences in product specifications.

NCD found that the cost of specialized DME was 11 to 58 percent higher in Puerto Rico versus the mainland, showing a possible correlation that the Jones Act does increase the price of goods. Interestingly, NCD found one DME item’s list price that was considerably lower than that in the states. Specifically, a Permobil F5, a complex power wheelchair. The Permobil list price in Puerto Rico was \$15,000 less than the same wheelchair in the states. Upon further review, NCD found that power wheelchairs do cost more because of shipping and taxes in Puerto Rico. However, the DME dealers interviewed stated that they drastically reduced the price of the Permobil and other complex power wheelchairs so that they are more accessible and affordable to PWDs on the island.

NCD found that the cost of specialized DME was 11 to 58 percent higher in Puerto Rico versus the mainland . . .

The cost of a complex power wheelchair for residents of the USVI was not available. A DME dealer in the USVI, interviewed for this report, stated that highly specialized equipment is normally not available. Thus, PWDs residing in USVI with private health insurance order through distributors from Florida, while veterans with disabilities residing in USVI obtain their DME directly from the Veterans Administration (VA) out of Puerto Rico.

The price disparity for more complex and specialized DME are due to shipping costs and insurance co-pays between Puerto Rico and the states. Those factors feed into the vicious cycle of Puerto Rican residents with disabilities inability

to achieve equality in education, employment, and attain independence. DME, including but not limited to wheelchair parts, is subject to the island’s inventory tax.

When looking at the availability of repair services and parts for power wheelchairs in Puerto Rico, most suppliers interviewed stated that they normally have an inventory of wheelchair tires, batteries, armrest, etc. However, specialized parts such as joy sticks, for example, need to be ordered by the manufacturer and may

Table 2.1: Price Comparisons of Specialized Durable Medical Equipment

	Puerto Rico	United States	Percent of Cost Difference
Emergency Evacuation Chair	\$2,441.07	\$1,495.00	39%
CPAP Machine	\$645.00	\$399.00	38%
Bath Lift	\$895.00	\$371.99	58%
Power Wheelchair Lift	\$3,475.00	\$3,099.00	11%

take between one to two weeks to arrive in Puerto Rico, leaving a person with a disability who is dependent on their chair, immobile and vulnerable until the part arrives. NCD found that the Commonwealth of Puerto Rico's inventory state tax has a direct impact on the amount of inventory a DME dealer is willing to stock.

This evident disparity in the cost of DME and availability of replacement parts is further complicated when

disasters strike, where shortages of goods are common. Congress usually reacts in these moments by waiving the Jones Act to allow for speedier access to goods. Pausing the Jones Act restrictions during natural disasters begs the question whether

the Jones Act serves its original purpose. One of the rationales behind the enactment of the Jones Act was the ability to rapidly respond to national security threats.³⁷ Natural

disasters are a threat to national security. The Jones Act has been temporarily lifted three times. After Hurricane

Katrina in 2006, Hurricane Sandy in 2012, and Hurricane María in 2017.³⁸ In all these instances, the disaster caused a deficit in resources (fuel, food, water, etc.), which American ships did not have the capacity to supply. Had the Jones Act not existed, disaster response and relief would have been quicker and more efficient.

The 2019 Disaster Relief Act, Public Law 116-20, provided an additional \$600 million in

food aid and \$300 million in construction aid to Puerto Rico to aid in recovery after Hurricane Maria. However, because of the Jones Act, and the additional shipping costs, the total aid was reduced by 200 and 100 million, between 10 percent and 20 percent of the total aid amount.³⁹ This adversely affects an island already impoverished where 50 percent of the population rely on nutritional assistance for food security.

The Jones Act is a 101-year-old law that continues to drive up costs and hamper economic growth in Puerto Rico and disparately impacts Puerto Ricans living on the island. The Jones Act has widespread economic impact on the cost of goods on the

island and especially impacts the availability and cost of complex DME. In addition, availability of DME and replacement parts on

the island due to local inventory taxes causes a shortage of goods in emergency situations and more expensive equipment year-

round. **NCD recommends Congress repeal the provision within the Jones Act that restricts coastwise trade on U.S. flagged vessels, for durable medical equipment covered under Medicare Part B (such as manual wheelchairs, power wheelchairs and components and replacement parts, scooters and component parts and replacement parts, patient lift and transfer**

Pausing the Jones Act restrictions during natural disasters begs the question whether the Jones Act serves its original purpose. One of the rationales behind the enactment of the Jones Act was the ability to rapidly respond to national security threats.

. . . 50 percent of the population rely on nutritional assistance for food security.

equipment, patient ventilators, portable oxygen, foam, gel, innerspring and air mattresses, continuous positive airway pressure (CPAP) devices, shower chairs and commode chairs, and suction pumps).

Inventory Tax and Other Taxes Paid in Puerto Rico That Affect People with Disabilities

Puerto Ricans, like citizens in the states, pay a variety of taxes that include income taxes, sales taxes, and inventory taxes among others. Puerto Rico has established income tax rates that are typically comparable with national republics.⁴⁰ Puerto Rico's income tax rates range from 7 percent for an annual income starting at \$9,001 to 33 percent for individuals whose annual income exceeds \$61,500 (plus an additional fixed amount of \$8,430).⁴¹ Puerto Rico's sales tax is 10 percent, plus an additional 1.5 percent (which is distributed to the municipal governments) for a total of an 11.5 percent tax rate. This contrasts with the tax rates of 42 states, which range from 4 to 6.9 percent.⁴²

In addition to these taxes, Puerto Rico has an inventory tax requirement on all products purchased and kept in a warehouse or business facility. The inventory tax requires that any item that has been in inventory (materials, supplies, furniture, fixtures, machinery, equipment, or cash), as of January 1st of any given year, for

business or trade purposes, must pay personal property tax in the municipality where this inventory is housed.

This tax mainly affects small to mid-size businesses (Pequeñas y Medianas Empresas (or PYMES for its Spanish acronym), since they may not have the cash flow to incur the additional expense. Larger businesses may have access to federal funding under designated foreign trade zones, access that is not extended to PYMES. These additional operating costs are eventually added on to the retail price of a product, and consequently to Puerto Rican consumers. This

tax is a revenue for each of the 78 municipalities on the Island, and each municipality has full autonomy to decide the percentage of inventory tax to charge, usually between 6.33 percent to 10.33 percent.⁴³

These municipal inventory taxes impact the supply and demand chain. Business owners will purchase less

merchandise to ensure no excess inventory is maintained. Lower quantities purchased represent higher costs per item because prices are less expensive when purchased in bulk. When added on to the Jones Act added costs, the result is products on the island are usually more expensive than the same products in the states. The need to decrease inventory levels to avoid taxation causes shortages when emergency situations occur, as was the case after Hurricane Maria. The island faced a shortage of groceries, medication, basic

The 2019 Disaster Relief Act, Public Law 116-20, provided an additional \$600 million in food aid and \$300 million in construction aid to Puerto Rico to aid in recovery after Hurricane Maria. However, because of the Jones Act, and the additional shipping costs, the total aid was reduced by 200 and 100 million.

emergency supplies, and assistive equipment, among other items.

NCD recommends

Puerto Rico waive the inventory tax for the purchase of DME to

improve availability of DME for PWDs.

In addition to the local state taxes imposed by the Commonwealth, Puerto Ricans also pay a series of federal taxes, although Puerto Rican residents do not pay federal taxes on income generated from Puerto Rican sources. Puerto Rican residents pay federal payroll taxes to finance Social Security and Medicare and

The need to decrease inventory levels to avoid taxation causes shortages when emergency situations occur, as was the case after Hurricane Maria.

In the United States versus José Luis Vaello-Madero, the First Circuit Court stated that Puerto Rican taxpayers contributed more to the federal treasury than taxpayers in six states and the Northern Mariana Islands.

federal unemployment taxes. Puerto Rican residents working for federal agencies also submit federal income tax returns. People who receive income (dividends, capital gains) from U.S. investments must also pay federal taxes. In Fiscal Year 2019, Puerto Rico paid \$3,528,739,000 in federal taxes.⁴⁴ In the *United States versus José Luis Vaello-Madero*, the First Circuit Court stated that Puerto Rican taxpayers contributed more to the federal treasury than taxpayers in six states and the Northern Mariana Islands.⁴⁵

Chapter 3: Health: Medicaid and Medicare

Disparities in Medicaid and Medicare

Medicaid in Puerto Rico is funded by a block grant that is capped and varies by year based on Congressional appropriations, which provides a prescribed amount of money for funding the program, unlike the Medicaid program in the states, which matches state expenditures. This funding gap has contributed to Puerto Rico's debt crisis. **NCD recommends Congress amend the Social Security Act to replace the Medicaid block grant program in Puerto Rico and other U.S. territories with an uncapped federal matching system, equivalent to the Medicaid program provided to U.S. residents.** NCD's research team found disparity in Puerto Rico's Medicare plan as well. Over 50 percent of Puerto Rican residents receive their healthcare benefits through Medicaid or Medicare. The disparate disbursement of these program benefits between the states and Puerto Rico contribute to a lower standard of care, service, and quality of life for Puerto Rican residents with disabilities. **NCD recommends Congress amend the Social Security Act to require Medicare benefits to residents of Puerto Rico and other U.S. territories be equal to those benefits provided to residents living in the United States.**

Medicaid

Medicaid is managed by the state or territory and provides health coverage for some low-income people, families with children, pregnant women, the elderly, and people with disabilities. In some states, the program covers all low-income adults below a certain income level. Medicaid provides health

Over 50 percent of Puerto Rican residents receive their healthcare benefits through Medicaid or Medicare.

insurance coverage to more people than any other single program in the United States. It provides coverage for low-income children, adults, seniors, and those with disabilities.⁴⁶ As of March 2017, there were 74 million Medicaid and Children's Health Insurance Program (CHIP) enrollees. Nearly 36 million were enrolled in CHIP or had children

enrolled in Medicaid, according to the Center for Medicaid and CHIP Services.⁴⁷

Medicaid is a lifeline for people with disabilities⁴⁸ who are less likely to have access to employer-sponsored health coverage, are more likely to have low incomes and may not be able to cover their healthcare costs independently.⁴⁹ Even with private insurance, PWDs may not be able to get the care they need since private plans typically do not cover the range of services available through Medicaid.⁵⁰ PWDs receiving Medicaid have the same access to a doctor as people with Medicare or private insurance.⁵¹

Medicaid provides a full range of coverage for PWDs, including preventive services, primary and specialty care, prescription drugs, medical equipment, and long-term services and supports. “About 40 percent of Medicaid beneficiaries with disabilities are also enrolled in Medicare, with Medicaid covering many of the services that Medicare does not, including long-term services and supports, and depending on the state, dental, vision and hearing services.”⁵² This kind of care is not usually available through private insurance and far too expensive for most people to fund out of pocket.^{53,54}

In the United States and U.S. territories,⁵⁵ 26 percent⁵⁶ of all adults have some type of disability. More than 10 million children and adults with disabilities rely on Medicaid.^{57,58}

People with disabilities comprise about 15 percent of all Medicaid beneficiaries. An agency representative from the PR Health Department stated that in Puerto Rico, as of May 2021, approximately 108,961 people are enrolled in Medicaid because of a disability. This represents 7.1 percent of all Medicaid beneficiaries on the island. Puerto Rico currently provides only 10 of Medicaid’s 17 mandatory benefits, citing insufficient funding and lack of

infrastructure.⁵⁹ Some of the mandatory benefits not covered are home health services for those entitled to nursing facility services, nonemergency transportation for medical care, certified pediatric and family

nurse practitioner services, and nursing facility services for individuals 21 or over. Table 3.1 illustrates the 17 mandatory benefits and those

currently provided by the Medicaid program in Puerto Rico.⁶⁰

Guam is the only territory that covers all 17 mandatory Medicaid benefits,

while American Samoa, like Puerto Rico covers 10 of 17. The reason some territories do not provide all 17 mandatory benefits is varied. Some of the reasons include limited funding, a lack of infrastructure, and in some cases, their right to exercise flexibility to exclude certain benefits.⁶² In American Samoa, for example, federal Medicaid and CHIP funds pay for care to the Lyndon B. Johnson Tropical Medical Center. This medical center is the only provider

[I]n Puerto Rico, as of May 2021, approximately 108,961 people are enrolled in Medicaid because of a disability. This represents 7.1 percent of all Medicaid beneficiaries on the island.

Puerto Rico currently provides only 10 of Medicaid’s 17 mandatory benefits, citing insufficient funding and lack of infrastructure.

Table 3.1: Mandatory Benefits provided by the Medicaid Program in Puerto Rico⁶¹

Mandatory Medicaid Benefit	Puerto Rico
Early and periodic screening diagnostic in treatment services	X
Inpatient hospital services	X
Laboratory X-ray services	X
Medical or surgical services by dentist	X
Outpatient hospital services	X
Physician services	X
Tobacco goes back home cessations for pregnant woman	X
Family planning services	X
Federally qualified health center services	X
Home health services for those entitled to nursing facility services	Not covered
Non-emergency transportation for medical care	Not covered
Certified pediatric and family nurse practitioner services	Not covered
Nurse midwife services	Not covered
Nursing facility services for individuals 21 and over	Not covered
Rural health clinic services	X
Emergency services for certain legalized aliens and undocumented aliens	Not covered
Freestanding birth center services	Not covered

for healthcare services in the territory at little or no out-of-pocket cost.⁶³ A 2015 GAO report found uniform and profound differences in

the implementation of the Medicaid program across all five territories, with Medicaid per capita funding by the Federal Government at only 1/10 of that in the states.⁶⁴

One of many disparities within the Medicaid program within the states versus U.S. territories is the Medicaid demonstration grant, Money Follows the Person. The grant provides funds to states to

transition people with disabilities out of nursing homes and back into the community. Since 2005, over 100,000 people have been moved into

the community. MFP grants are not available to American citizens residing in Puerto Rico or other U.S. territories.

NCD recommends Congress amend the Deficit Protection Act of 2005, Public Law 109-171 (2006) to extend

the Money Follows the Person Demonstration Grant Funding to Medicaid recipients residing in U.S. territories.

A 2015 GAO report found uniform and profound differences in the implementation of the Medicaid program across all five territories, with Medicaid per capita funding by the Federal Government at only 1/10 of that in the states.

Thirty-nine percent of all Puerto Ricans living on the Island receive health insurance through the Medicaid program compared to 10 percent in the states.⁶⁵ Yet, Puerto Rico receives less federal funding than any state. As a result, Puerto Rico on average spends significantly less on its Medicaid beneficiaries (\$1,980 in Puerto Rico compared to \$6,060 in the United States in 2014).⁶⁶

Distinct from Medicaid funding for the 50 states and the District of Columbia, federal funding for Puerto Rico's Medicaid program is through a block grant rather than federal cost sharing.⁶⁷ For each state, the amount of funding is determined by the state's per capita income relative to the nation's per capita income. This Federal Medical Assistance Percentage (FMAP) is the federal Medicaid reimbursement rate that traditionally provides higher rates to poorer states. However, the U.S. territories are assigned a permanent FMAP of 50 percent, which was subsequently increased to 55 percent with the Patient Protection and Affordable Care Act (ACA).

Unlike the 50 states and the District of Columbia, where the Federal Government will match all Medicaid expenditures at the established FMAP rate for that state, in Puerto Rico, the FMAP is applied until the Medicaid ceiling funds and the ACA funds are exhausted.⁶⁸ If Medicaid coverage in Puerto Rico was the

same as in the states, its FMAP rate would be 87 percent. Meaning, the Federal Government will pay 87 percent of Puerto Rico's Medicaid expenditures.⁶⁹ Instead, Puerto Rico generally exhausts all its ACA funds before the end of a given year, shifting the burden to Puerto Rico to fund the remaining expenditures. The Puerto Rico block grant for Fiscal Year 2019 was \$367 million, while Puerto Rico's total Medicaid expenditures were projected to be almost \$2.8 billion. The

block grant only provided enough funds to cover 13 percent of the projected expenditures, leaving 87 percent of the projected expenditures not covered by the block grant.⁷⁰ Federal funding for Puerto Rico's Medicaid program

increased through ACA. However, despite this increase, the match rate of 55 percent is still noticeably lower than that received in the United

States.⁷¹ The disparity in which Medicaid is funded between the states and Puerto Rico is a detriment to the health status of Puerto Ricans with disabilities.

The structural inequity of Medicaid funding in Puerto Rico creates an enormous fiscal strain on the healthcare system on the Island and severely limits its ability to provide much needed care for its most vulnerable population. In 2013, NCD examined the history of federal block grant programs and summarized findings from studies examining the potential impact of current and past Medicaid block grant proposals.⁷² In its

Thirty-nine percent of all Puerto Ricans living on the Island receive health insurance through the Medicaid program compared to 10 percent in the states. Yet, Puerto Rico receives less federal funding than any state.

Federal funding for Puerto Rico's Medicaid program is through a block grant rather than federal cost sharing.

A Medicaid Block Grant Program: Implications for People with Disabilities report, NCD found PWDs frequently lack health insurance or coverage for necessary services such as specialty care, long-term care, care coordination, prescription medications, DME, and assistive technologies; they also experience a higher prevalence of secondary conditions and use preventive services at a lower rate than others. PWDs are affected disproportionately by barriers to care.⁷³

Additionally, NCD asserted that converting the current U.S. Medicaid program to a state block grant would result in a lack of fiscal resources to replace lost federal assistance by states and slice benefits or trim eligibility. Instead of the Federal Government picking up half to three-quarters of the cost of future recessions, epidemics, and the introduction of new, high-cost pharmaceutical treatments, states would be left on their own coping with the financial uncertainties caused by the block grant. NCD's report indicated that block grant funding would place states and program beneficiaries in a far more vulnerable financial position, especially PWDs who would be at special risk.⁷⁴ The concerns articulated by NCD in our 2013 report borne true in Puerto Rico.

There is a clear correlation between the health status of a person with a disability and Medicaid funding in Puerto Rico.⁷⁵ Studies evaluating Medicaid expansion after the Affordable Care Act have found evidence to support that

Medicaid expansion has a positive effect on health outcomes, including health outcomes for PWDs.⁷⁶

Additionally, stakeholders interviewed for this report mentioned that Medicaid eligibility thresholds in Puerto Rico discourage PWDs from seeking employment. Many residents struggle to choose whether they should quit their job in order to qualify for the state funded health insurance, Plan Vital, or keep their job and receive a low coverage private plan provided by their employer. In addition, they pointed out that Medicaid providers receive a low fee per

service percentage, which represents 60 percent of the national average when compared to the other states. These issues are not unique to Puerto Rico's Medicaid program, as residents in the United States have expressed the same concerns but coupled with the extreme poverty and extreme rates of unemployment

for people with disabilities, it places the health and well-being of Puerto Rican residents with disabilities in great peril.

As NCD predicted, the block grant for Puerto Rico's Medicaid program has taken its toll on PWDs. Puerto Rico's Medicaid block grant funding has led to expansive Medicaid funding shortfalls and contributes to Puerto Rico's fiscal and debt crisis.⁷⁷ The disparate treatment of Puerto Rico's Medicaid program, when compared with the states, is the most significant and primary reason for the problems

The Puerto Rico block grant for fiscal year 2019 was \$367 million, while Puerto Rico's total Medicaid expenditures were projected to be almost \$2.8 billion. The block grant only provided enough funds to cover 13 percent of the projected expenditures, leaving 87 percent of the projected expenditures not covered by the block grant.

faced by Puerto Rico’s healthcare system. It has left the island in a vulnerable financial position; especially PWDs who are at special risk who already faced disparities in access to healthcare. **NCD recommends Congress amend the Social Security Act to replace the Medicaid block grant program in Puerto Rico and other U.S. territories with an uncapped federal matching system, equivalent to the Medicaid program provided to U.S. residents.**

Medicare

Medicare is a federally funded health insurance program for individuals ages 65 and over and PWDs who receive Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI). Medicare provides hospital coverage (Part A) and supplementary medical insurance (Part B). The Federal Government also contracts with private health insurance companies to provide Medicare supplemental benefits (Part C or Medicare Advantage [MA]) and prescription drug expenditures (Part D) to Medicare beneficiaries. Providers are paid a per person monthly amount to provide all Medicare covered benefits (except hospice) to beneficiaries who enroll in an MA plan.⁷⁸ Everyone is required to enroll in Medicare Part A once they begin receiving Social Security benefits. However, Medicare Parts B, C, and D are optional, so a beneficiary can opt out if they have other insurance coverage.

About 29.1 percent of Puerto Rican residents are covered by Medicare,⁷⁹ compared to just

15 percent of the U.S. population.⁸⁰ In 2014, 16 percent of Puerto Ricans who received publicly funded health insurance were beneficiaries of Puerto Rico’s Medicare Advantage Plan, 6 percent were beneficiaries of traditional Medicare programs,⁸¹ 58 percent of the general population had some type of publicly funded health insurance (Medicaid, Medicare or Veterans), 35 percent of the general population had some type of private health insurance, and an average of 7 percent had no health insurance.⁸² Puerto Rico ranked last among all states and the District of Columbia on average performance across 22 Medicare quality indicators.⁸³ The quality indicators measure or quantify healthcare processes, outcomes, patient perceptions, and organizational structure that

are associated with the ability to provide high-quality healthcare.⁸⁴ The goals include providing effective, safe, efficient, patient-centered, equitable, and timely care.⁸⁵

In Fiscal Year 2019, the Federal Government spent nearly \$1.2 trillion on healthcare.⁸⁶ Medicare accounted for roughly \$644 billion with Medicaid and the Children’s Health Insurance Program (CHIP) accounting for \$427 billion. The growth of these numbers is impacted in part by the increased cost of disability-associated healthcare expenditures stemming from the high prevalence of disability among an ever-growing adult population.

Stakeholders interviewed for this report identified the greatest disparity between the states and Puerto Rico with regard to the Medicare program is the 75 percent Medicare cap. The Inpatient Prospective Payment

Puerto Rico’s Medicaid block grant funding has led to expansive Medicaid funding shortfalls and contributes to Puerto Rico’s fiscal and debt crisis.

System (IPPS) excluded Puerto Rico initially, which was Medicare payments under a cost-based reimbursement system for hospital systems that were operated primarily under local government administration. Eventually, Puerto Rico's hospitals were included by Congress in the IPPS but at a lower percentage. The national cost-based formula was applied to only 25 percent of the payment, whereas in the states it is applied to 100 percent. For the remainder, Congress enacted a special Puerto Rico based IPPS, which perpetuated the depressed local pricing levels within the Medicare payment system.⁸⁷

Puerto Rico ranked last among all states and the District of Columbia on average performance across 22 Medicare quality indicators.

The majority (71 percent) of Puerto Rican resident Medicare beneficiaries receive services through a Medicare Advantage (MA) plan, compared to 34 percent in the states.⁸⁸ CMS is responsible for establishing the reimbursement rate for services provided under an MA plan. As of 2018, CMS established reimbursement was 43 percent below the national average and 26 percent below that of its neighbors in the U.S. Virgin Islands.⁸⁹

This reimbursement rate has exacerbated the already crumbling healthcare infrastructure in Puerto Rico and has hastened the mass exodus of healthcare professionals to the mainland for higher reimbursement rates. Over 1,000 healthcare



professionals have migrated to the mainland over the last five years.⁹⁰ This has left all Puerto Ricans, but especially Puerto Ricans with disabilities, with limited choice and access to much-needed specialty health services.

Another disparity within the Medicare program is the vast difference between the co-pay percentage for durable medical equipment. In the states, the Medicare co-pay for DME is 20 percent, whereas in Puerto Rico, the Medicare co-pay is 50 percent. Thus, for a Medicare beneficiary residing in the states, out-of-pocket expense for DME is 20 percent of the list price of the equipment. Whereas a beneficiary residing in Puerto Rico is required to pay 50 percent of the cost of the equipment.

Medicare beneficiaries on the island are already unduly burdened by a higher list price for DME

because of the cost of shipping. When one factors in the co-pay amount for DME, it makes much needed DME unattainable for many people with disabilities. For example, in the states the list price for a Permobil F5 (a complex power wheelchair) is \$60,000. Medicare recipients are subject to a 20 percent co-pay, which would be \$12,000. In Puerto Rico, a Permobil F5's list price is \$45,000. The actual cost of a Permobil F5 to Puerto Rican DME dealers is higher than in the states, so DME dealers drastically reduce the price to make the complex power wheelchair more accessible and affordable to Puerto Ricans with disabilities. Medicare recipients are subject to a 50 percent co-pay, which would be \$22,500. The co-pay for a Puerto Rican beneficiary to acquire a power wheelchair is greater than Puerto Rico's average annual per capita income (\$12,914 in 2019).⁹¹



A PWD in need of a complex power chair should not be required to choose between food and rent or independence and mobility. The out-of-pocket expense required for DME under the Advantage Medicare program in Puerto Rico excludes, by design, Puerto Rican residents with disabilities access to desperately needed DME.

The enrollment process for Medicare is executed disparately as well. Puerto Rican residents are required to enroll in Medicare Part A and Part B and given a limited open enrollment window to do so. If a beneficiary opts out or misses the open enrollment window and wishes to opt in at any time, the beneficiary is assessed a penalty. That same penalty is also assessed to those on the mainland, but U.S. residents are automatically enrolled in both and must opt out of the program. The penalty is 10 percent of the monthly premium, and the penalty is assessed for the life of the policy.

NCD recommends Congress amend the Social Security Act to eliminate the late penalty enrollment provision placed on Puerto Rico and U.S. territory Medicare recipients. In the alternative, NCD recommends Congress pass HR 4666 (2019) to amend title XVIII of the Social Security Act to provide certain low-income territorial residents with automatic eligibility for premium and cost-sharing subsidies under the Medicare program, and for other purposes.

The co-pay for a Puerto Rican beneficiary to acquire a power wheelchair is greater than Puerto Rico's average annual per capita income (\$12,914 in 2019).

A PWD in need of a complex power chair should not be required to choose between food and rent or independence and mobility.

There are four types of medical savings programs: the Qualified Medicare Beneficiary program, the Specified Low-Income Medicare Beneficiary program, the Qualified Individual program and the Qualified Disabled and Working Individuals program. The Omnibus Reconciliation Act of 1986 required states to pay for Medicare Part B premiums for beneficiaries up to 100 percent federal poverty level (FPL).

The FPL is also known as the poverty line and defined as the amount of annualized income earned by a household, below which they would be eligible to receive certain welfare benefits, or to cover Part B benefits through other means. Subsequently, in 1990, the requirement was extended to beneficiaries up to 120 percent FPL. Puerto Rican residents are not eligible for any of these programs.⁹²

Another program to assist low-income beneficiaries is the Low Income Subsidy (LIS) program. Premium and cost-sharing assistance is available for Part D enrollees with low incomes, and Medicare beneficiaries in the states and the District of Columbia are eligible for this program.⁹³ Medicare beneficiaries residing in territories are not.

NCD found numerous examples of Puerto Ricans facing disparity in access to healthcare compared to those living in the United States. Two of the stakeholder groups that participated in this report were PWDs and parents of children

with disabilities. They moved from the states back to Puerto Rico and stated they had a wider array of benefits and greater access to needed health services when living in the United States and that the benefits and services promoted independent living and access to a wider array of services. Stakeholders acknowledged greater access to over-the-counter medications and hygiene supplies in the United States versus in Puerto Rico where

access was not readily available. They also acknowledged that many of the products that were covered under Medicare in the states were not covered items

in Puerto Rico, resulting in higher out-of-pocket expenses for supplies. Stakeholders also stated that even with Medicare, the price of healthcare is expensive. Some PWDs in Puerto Rico who are homeowners have had to place second mortgages on their homes to attain much-needed medical care.

Physical accessibility to medical offices and appropriate medical equipment is still a challenge in Puerto Rico as well as in the states, as was discussed

in NCD's 2021 report, *Enforceable Accessible Medical Equipment Standards: A Necessary Means to Address the Health Care Needs of People with Mobility Disabilities*. Additionally, some stakeholders reported that Puerto Rico's healthcare system lacked proper information and orientation on how to best navigate the system to acquire services for their children

and on transition services on the island. Some stakeholders explained that services in the states are often offered in "one stop centers" where PWDs get all the services needed in one place and that patients have greater flexibility and options when choosing their medical service providers. One interviewee stated that the disparity in healthcare services between Puerto Rico and the states makes one feel like a

"second class citizen."

PWDs in Puerto Rico are at greater risk of developing secondary, comorbid, and age-related health conditions than the general population,⁹⁴ and access

to comprehensive, inclusive healthcare is a necessity. However, when Puerto Rican residents with disabilities attempt to access much-needed health services, they face barriers instead.

The loss of federal payments to Puerto Rico's MA program; the limitations of Medicaid

funding and the ensuing dearth of healthcare providers who have left the island; and already impoverished Puerto Ricans with few options for treatment all emphasize the urgent

need for healthcare reform on the island that would benefit providers as much as patients.⁹⁵

For these reasons, **NCD recommends Congress amend the Social Security Act to allocate Medicare benefits for residents of Puerto Rico and other U.S. territories equal to those benefits provided to residents living in the United States.**

[M]any of the products that were covered under Medicare in the states were not covered items in Puerto Rico, resulting in higher out-of-pocket expenses for supplies.

One interviewee stated that the disparity in health care services between Puerto Rico and the States makes one feel like a "second class citizen."

Chapter 4: Income Assistance Benefits and Programs

Disparities in Income Assistance and Benefits

Supplemental Security Income (SSI) is available to U.S. residents and the territory of the Northern Mariana Islands. SSI is not available to PWDs in Puerto Rico and the other U.S. territories. Eligible Puerto Rican residents with disabilities receive benefits through the Aged, Blind and Disabled Program (AABD). This entitlement program is not equal to SSI. Monthly benefits under AABD are only \$75 compared to over \$750 for an SSI recipient. This is a noticeable disparity that severely impacts Puerto Rican residents with disabilities ability to manage their most basic needs. **NCD recommends Congress amend Title XVI of the Social Security Act to require SSI benefits be provided to all eligible U.S. citizens, to include residents of Puerto Rico and U.S. territories.**

The United States federal Supplemental Nutrition Assistance Program (SNAP) is also not available to Puerto Rican residents. Instead, Puerto Rico's food assistance program is a block grant program with limited funds, and unlike SNAP, does not adjust to the cost of living or to extreme situations caused by disasters. **NCD recommends Congress amend the Food Stamp Act to include Puerto Rico, the Northern Mariana Islands, and American Samoa in the SNAP program, as has been done for Guam and the USVI.**

Globally, an estimated 36 percent of people who are very poor have escaped poverty as a result of safety nets.⁹⁶ This statistic alone demonstrates the critical and meaningful impact safety nets provide to improve standards of living. A safety net is not only a monetary benefit, though financial resources are at the core. A safety net is an interconnected web of services and benefits that together lift those living in poverty to a better quality of life.

The U.S. social safety net is composed of a number of different programs that provide various kinds of help designed to protect those with low socioeconomic status from poverty and hardship. When at high levels of poverty, the goal becomes ensuring a minimum standard of living.⁹⁷ In Puerto Rico, with its high level of poverty and percentage of residents with disabilities, a minimum standard of living seems elusive.⁹⁸ Javier Balmaceda, Senior Policy Analyst on

Puerto Rico for the Center on Budget and Policy Priority reflects, “Nowhere is the need greater than in Puerto Rico, which unlike other parts of the country entered the pandemic following well over a decade of virtually uninterrupted economic decline coupled with devastating natural disasters.”⁹⁹

Supplemental Security Income (SSI)

SSI is a federal program, administered by the Social Security Administration, which provides monthly cash payments to the aged, blind, and PWDs who lack the financial means to support themselves and that helps them meet basic needs of food, shelter, and clothing. It is perhaps the most important safety net program in the United States, a program of last resort, and a part of the safety net that protects citizens from abject poverty.

SSI, created by Congress in 1972, was made available to eligible U.S. citizens residing in all 50 states and the District of Columbia. SSI was not made available to American citizens residing in Puerto Rico or other U.S. territories. Under SSI, the Federal Government establishes eligibility standards, determines federal benefit amounts, and pays the total sum of those benefits and administrative expenses.¹⁰⁰ In 1976, Congress extended SSI to the Northern Mariana Islands as part of a commitment made by the United States to the island when it was established as a commonwealth. To date, the Northern Mariana Islands is the only U.S. territory that receives SSI. Puerto Rico, like the other

territories, except for the Mariana Islands, grants federal assistance to the needy, aged, blind, and disabled individuals through AABD.

AABD emphasizes greater local control with less federal funding. As such, Puerto Rico establishes income benefit sums, set by Section 1108 of the Social Security Act and is not adjusted for inflation. AABD funding has not increased since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P. L. 104-193).¹⁰¹ The Federal Government pays two-thirds of the benefits established by the government of Puerto Rico and half of the administrative

costs, and the program is subject to a statutory total expenditures cap. The income limit, the maximum allowable income to qualify for benefits]and benefit amounts for AABD are dramatically lower than SSI.¹⁰² To be eligible for AABD, an individuals’

countable income must be less than \$64 a month,¹⁰³ whereas the income limit for SSI is \$794.¹⁰⁴ A Puerto Rican resident with a disability receives only \$75 a month through AABD in comparison to a monthly maximum of \$841 in SSI benefits.¹⁰⁵ Puerto Ricans residing in the states receive a yearly benefit of approximately \$9,500 under SSI compared to persons with disabilities residing on the island who receive only \$900 per year under AABD (see Table 4.1).

The poverty level in Puerto Rico is greater than the poorest state on the mainland. The absence of SSI benefits exacerbates the percentage of Puerto Ricans with disabilities living in poverty

“Nowhere is the need greater than in Puerto Rico, which unlike other parts of the country entered the pandemic following well over a decade of virtually uninterrupted economic decline coupled with devastating natural disasters.”

Table 4.1: SSI/AABD Comparison of SSI/AABD Benefits of Puerto Ricans Living in the States Versus Puerto Rico

	Puerto Rican’s living in the states	Puerto Rican residents living on the island
Total Households	1,873,440	1,192,654 ¹⁰⁶
SSI/AABD Households	215,445	37,000 ¹⁰⁷
Mean Yearly Income	\$9040	\$900

and eliminates a PWD’s ability to financially care for oneself. One explanation given for the disparity is that SSI benefits are paid by revenues generated by federal income taxes and those in Puerto Rico or other territories generally do not pay federal income tax.¹⁰⁸ A letter supporting extending SSI to Puerto Rico and the territories, by a group of Congressional members who introduced the *Supplemental Security Income Equality Act* in January 2012 (most recently introduced as H.R. 537 in the 117th Congress), reflected the following:¹⁰⁹

It could be questioned whether extending SSI to Puerto Rico, Guam, the U.S. Virgin Island and American Samoa is justified given that SSI is funded by federal general revenues and residents of the territories are not required to pay federal income taxes on their local income.

The poverty level in Puerto Rico is greater than the poorest state on the mainland.

[O]ver 45% of all households in the 50 states do not earn enough to pay any federal taxes. And there is virtually no chance that an SSI recipient in the states pays federal income taxes, since SSI recipients generally cannot have assets that exceed \$2,000 . . . Thus, to exclude four territories from SSI because their residents are not required to pay federal taxes on their local income is clearly unfair.

But we do not believe this argument withstands scrutiny for at least two reasons. First, as noted, eligible residents of one territory already receive SSI. Second, over 45% of all households in the 50 states do not earn enough to pay any federal taxes. And there is virtually no chance that an SSI recipient in the states pays federal income taxes, since SSI

recipients generally cannot have assets that exceed \$2,000 (\$3,000 in case of beneficiary-couples). Thus, to exclude four territories from SSI because their residents are not required to pay federal taxes on their local income is clearly unfair.¹¹⁰

In addition, they emphasized that since 1973, “delegates from the territories have introduced at least 35 bills that would extend SSI

to their constituents,” yet no House or Senate committee has ever held a hearing to examine the issue.¹¹¹

In 2019, Puerto Rico paid over \$3.5 billion to the Federal Treasury.¹¹²

Puerto Rico residents pay Social Security and are eligible for Social Security benefits upon retirement, yet they are excluded from the SSI program. Puerto Ricans on the Island also pay other taxes such as payroll, business, gift, and estate taxes. Those that are employed by the Federal Government must file a federal income tax

return as must any resident who earns money from outside the territory. Pew Research Center found that in the United States, taxpayers earning less than \$30,000 paid only “1.4 percent of all federal income tax, and two-thirds of the almost 66 million returns filed by people in this lower income bracket owed no tax at all.”¹¹³ To compare, the annual household income in Puerto Rico is \$20,539 with a per capita income of \$12,914, indicating that even if Puerto Rican residents were required to pay federal income tax, the majority of them would be exempt.¹¹⁴

In a 2014 report, the Government Accountability Office (GAO) indicated that if Puerto Rico participated in the SSI program, beneficiaries would be eligible to receive between \$1.5 billion and \$1.8 billion each year, using Fiscal Year 2011 data.¹¹⁵ This contrasts with the \$23.7 million for Fiscal Year 2017 of Puerto Rico’s AABD in federal costs for benefit

[GAO] indicated that if Puerto Rico participated in the SSI program, beneficiaries would be eligible to receive between \$1.5 billion and \$1.8 billion each year, using Fiscal Year 2011 data. This contrasts with the \$23.7 million for Fiscal Year 2017 of Puerto Rico’s AABD in federal costs for benefit payments and \$1.3 million for administrative expenses.

payments and \$1.3 million for administrative expenses.¹¹⁶

The Center for a New Economy conducted a review of the impact SSI eligibility for Puerto

Rican residents would have on Puerto Rico and estimated the population eligible for SSI benefits in Puerto Rico based on the 2018 American Community Survey, as reflected in Table 4.2.¹¹⁷

Every territory pays federal taxes. In 2019, USVI paid federal taxes in the amount of \$179 million, while Guam paid \$169 million, the Northern Mariana Islands

paid \$58.8 million, and American Samoa paid \$22.7 million in taxes to the Federal Government.

Table 4.2: Populations Eligible for SSI Benefits¹¹⁸

Population by Age, Disability, and Poverty Status (Income in the past 12 months below poverty level)	Puerto Rico
Under 5 years, with a disability	1,173
5 to 17 years, with a disability	25,235
18 to 34 years, with a disability	31,029
35-64 years, with a disability	128,868
65 to 74 years, with a disability	49,967
65 to 74 years, no disability	79,812
75 years and over, with a disability	77,770
75 years and over, no disability	42,032
TOTAL	435,886

From 1990–2009, Puerto Rico paid \$73.7 billion to the U.S. Federal Government in taxes, greater than six other states: Wyoming (\$51.3B), Vermont (\$54.7B), South Dakota (\$64.7B), Alaska (\$63.2), North Dakota (\$53.9B), and Montana (\$60.8B).¹¹⁹

Expanding SSI eligibility to all territories would provide a much-needed safety net and elevate the incomes of PWDs to a level that would provide an opportunity for them to be able to afford some of the basic needs required as a PWD. Approximately 24,000 Guam residents and 11,587 American Samoa residents with disabilities would be eligible for SSI.¹²⁰ The 2010 U.S. Census data for USVI reveals that over 10,000 residents are PWDs; one could infer that a high percentage of these would benefit from the program. However, it is important to note that data for PWDs in the territories is extremely limited and is not reported within U.S. statistical data gathering and reporting. Multiple federal agencies produce reports that collect data and report on outcomes and access to quality healthcare. The Agency for Healthcare Research and Quality has produced in the annual National Healthcare Quality and Disparities Report mandated by Congress to provide a comprehensive overview of the quality of healthcare received by the general U.S. population and disparities in care experienced by different racial and socioeconomic groups. Data from U.S. territories has never been included in the report. **NCD recommends all federal and state agencies, as well as public and private universities, include data on people with disabilities living in Puerto Rico and other territories in data collection to improve accountability so that appropriate resources are provided to ensure equity to programs that allow PWDs the opportunity to achieve economic independence. (For example, data**

collection initiatives collected by the Census Bureau, National Health Interview Survey, and State of the States)

A stakeholder interviewed for this report stated, “*We need SSI, we need supplemental assistance for young PWDs, we need the Vital Health Plan to include alternatives for this population, with professionals who have knowledge of the process to help this population at a health level.*”

The consequences of denying SSI to U.S. citizens with disabilities residing in Puerto Rico has been and continues to be catastrophic. PWDs already experience higher rates of poverty than their nondisabled peers, and when one adds lower income benefits it places them in a cycle of extreme poverty they will likely never escape. This disparity negatively impacts the Puerto Rican economy, as it limits funds to stimulate economic development and financial activity. In addition, the implications for U.S. citizens who receive SSI on the mainland and move to Puerto Rico are punitive, as their SSI benefits are canceled once a PWD changes residency.

Challenging Disparate Treatment: United States v. Vaello-Madero US Supreme Court

Heretofore, NCD’s report has argued the policy reasons for addressing the disparate treatment of PWDs in Puerto Rico in federal program eligibility and benefits receipt; however, there are compelling legal arguments for these changes as well. The disparate treatment in the SSI program in particular was challenged in the federal district court of Puerto Rico in 2018 in *United States v. Vaello-Madero*, 313 F.Supp. 3d 370 (D.P.R. 2018),¹²¹ as a violation of the Constitution’s Fifth Amendment’s guarantees of

equal protection. In a February 2020 ruling issued by U.S. District Judge Gustavo Gelpi, he declared that the Federal Government’s policy of denying SSI benefits to U.S. citizens in the territories “impermissibly creates a group of second-class citizens and violates the equal protection component of the Fifth Amendment.”¹²²

This conclusion was affirmed by the U.S. Court of Appeals in Boston on April 2020, *United States v. Vaello-Madero*, 956 F.3d 12, 125 A.F.T.R.2d 2020-1686 (1st Cir. 2020), cert. granted, 2021 WL 769690, 2021 Daily Journal D.A.R. 1895 (U.S. Mar. 1, 2021) (Judge Juan Torruella, Judge O. Rogeriee Thompson, and Chief Judge Jeffrey Howard), where the court affirms:

The categorical exclusion of otherwise eligible Puerto Rico residents from SSI is not rationally related to a legitimate government interest. In addition to the record established by the parties, we have considered even conceivable theoretical reasons for the differential treatment conceded by the government. Having found no set of facts, nor Appellant having alleged any additional theory, establishing a rational basis for the exclusion of Puerto Rico residents from SSI coverage, such exclusion of the residents of Puerto Rico is declared invalid.¹²³

“The categorical exclusion of otherwise eligible Puerto Rico residents from SSI is not rationally related to a legitimate government interest.”

District Court of Puerto Rico Federal Judge William G. Young ruled that “the federal government’s exclusion of Puerto Rico residents from the three major social benefits programs is an unconstitutional violation of equal protection”

The U.S. Court of Appeals states that the Fifth Amendment does not allow the United States to arbitrarily deny SSI benefits to individuals who qualify for the benefit but are deemed ineligible for the benefit due to their residency.¹²⁴ Two reasons were presented by the U.S. Government for the exclusion of residents of Puerto Rico: Puerto Rico’s unique tax status and the expense of expanding the program to island residents. In

its response, the court stated:

The residents of Puerto Rico not only make substantial contributions to the federal treasury, but

in fact have consistently made them in higher amounts than taxpayers in at least six states, as well as the territory of the Northern Mariana Islands.¹²⁵

The U.S. Supreme Court heard oral arguments in November 2021. The question before the Court is whether Congress infringed the Equal Protection section of the Fifth Amendment’s

Due Process Clause by refusing SSI benefits to Puerto Rican residents.¹²⁶ At the time of this report publication, the Court had not rendered its ruling.

In addition to the case above, in 2018, nine plaintiffs filed suit against the U.S. Department of Health and Human Services (HHS) regarding the constitutionality of exclusion from SSI, SNAP,

and Medicare Part D Low Income Subsidy (LIS) program in *Pena-Martinez vs. US Health and Human Services*.¹²⁷ District Court of Puerto Rico Federal Judge William G. Young ruled that “the federal government’s exclusion of Puerto Rico residents from the three major social benefits programs is an unconstitutional violation of equal protection,” ruling in favor of the nine plaintiffs who would qualify for these benefits if they did not live in Puerto Rico but instead in any of the 50 states. The court issued an injunction covering potential beneficiaries across the island and provided a 60-day administrative stay for the Federal Government to implement its ruling, applying to the nine plaintiffs immediately.^{128,129} The Federal Government filed an appeal with the Court of Appeals for the First Circuit and is awaiting litigation.

The economic impact on PWDs living in Puerto Rico would be significant if the above decisions are upheld. It would provide billions of dollars to assist the lives of the most vulnerable U.S. citizens.

Without question, there is disparate treatment in which American citizens who live in Puerto Rico are denied access to SSI, the single most important safety net program the Federal Government makes available to citizens residing in the states and in the Northern Mariana Islands. The exclusion of SSI to Puerto Rican residents with disabilities also precludes Puerto

Rican residents’ access to quality healthcare coverage. Recipients of SSI are automatically eligible for Medicare, a benefit not provided under AABD. **NCD recommends Congress pass HR 537, the Supplemental Security Income Equality Act (117th Congress), which would provide SSI benefits to residents of Puerto Rico and U.S. territories. Alternatively, NCD recommends Congress amend Title XVI of the**

Social Security Act to extend SSI benefits to residents of Puerto Rico and U.S. territories.

Eligibility for SSI benefits should be identical

to those afforded all U.S. citizens, regardless of zip code.

Social Security Disability Insurance (SSDI)

SSDI is an entitlement program that pays cash benefits to individuals who can’t work and have a medical condition that can last for at

least one year or result in death.^{130,131} These benefits are calculated using the PWD’s previous earnings and are paid to the PWD and family dependents.

SSDI is administered under the Social Security Administration (SSA) and is available to individuals

under 65 years of age who have a qualifying severe disability. SSA uses both non-medical and medical disability criteria when determining eligibility for SSDI. Individuals must provide documentation of a medical disability and meet two different earning

Eligibility for SSI benefits should be identical to those afforded all U.S. citizens, regardless of zip code.

The exclusion of SSI to Puerto Rican residents with disabilities also precludes Puerto Rican residents’ access to quality healthcare coverage. Recipients of SSI are automatically eligible for Medicare, a benefit not provided under AABD.

tests, a “recent work test” and a “duration of work test.” Certain blind workers are only required to meet the duration of the work test.¹³²

Certain family members can qualify for benefits of an eligible person’s work, such as a spouse if older than 62 years old, a divorced spouse if married for at least 10 years, unmarried children including adopted children younger than 18 or 19 if still in high school, a child with a disability, or an adult child with a disability before age 22.¹³³

SSA evaluates medical information provided by the applicant, their healthcare providers, and their own health professionals, who will give the applicant a medical exam. The process is lengthy with about 63 percent of applications being rejected. SSDI beneficiaries are eligible for Medicare after two years.

The application process for SSDI is the same in Puerto Rico as it is for PWDs residing in the states. Approximately 6 percent of Puerto Rican residents receive SSDI

compared to an average of 4.4 percent in the states.¹³⁴ The average monthly disability benefit is \$1,037 in Puerto Rico compared to \$1,195 in the states. Approximately 7 million people receive SSDI benefits in the states, accounting for 13.8 percent of total benefits.¹³⁵ In December 2019, approximately 4,600 Puerto Rican and U.S. territory residents with disabilities received SSDI with an average monthly disability payment of \$990 (American Samoa \$883, Guam \$1,080, Northern Mariana Islands \$806, and

USVI \$1,191).¹³⁶ NCD found no disparity in the distribution of SSDI benefits.

Federal Nutrition Assistance Programs

The Supplemental Nutrition Assistance Program (SNAP) provides eligible, low-income individuals and households in need of nutrition assistance.¹³⁷ SNAP is the largest federal domestic nutrition assistance program administered by the Food and

Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA).¹³⁸ SNAP benefits are an entitlement program.¹³⁹ A person aged 60 or older is considered a senior for SNAP eligibility purposes.

A person is considered to have a disability if they receive federal or state payment due to a disability, blindness, payments, or other disability benefits.

SNAP is not available in Puerto Rico, while residents of certain other territories, such as Guam and USVI, do qualify for SNAP benefits.

Puerto Rican residents were removed from the SNAP program in 1981. As part of the Omnibus Budget Reconciliation

Act of 1981, Puerto Rico was removed from the National Food Assistance Program, and a standalone nutrition assistance program was created for Puerto Rico (NAP, or PAN for its name in Spanish, Programa de Asistencia Nutricional). Permanently authorized in 1985, NAP continues to be the food assistance program in Puerto Rico, American Samoa, and the Mariana Islands, each with varying rules.

SNAP is not available in Puerto Rico, while residents of certain other territories, such as Guam and USVI, do qualify for SNAP benefits. Puerto Rican residents were removed from the SNAP program in 1981.

NCD found no disparity in the distribution of SSDI benefits.

NAP is administered via a block grant, which means the funding for NAP is capped and eligibility and benefit levels are determined based on budget instead of an individual's need. There is also no mechanism to supplement for rising food prices. The very design prevents the program from assisting all Puerto Rican residents who experience food insecurity. The structure of NAP as a block grant exacerbates food insecurity in Puerto Rico. SNAP, however, is an entitlement program that bases eligibility on poverty levels and the cost of food enabling benefits to adapt to changing socioeconomic conditions of recipients.¹⁴⁰

NAP Eligibility Requirements

As in the United States, eligibility requirements for NAP in Puerto Rico are determined primarily by the level of income and resources of the participants with slight variations designed to simplify eligibility requirements. Most of the eligibility requirements are validated through the Automated Case Management System, which improves the efficacy of the eligibility determination process and reduces the percentage of errors and fraud.

To qualify for NAP,¹⁴¹ a person must live in Puerto Rico and:

- Resources cannot exceed \$2,000 (savings accounts, bank accounts, etc.); or
- Resources cannot exceed \$3,000 (savings accounts, bank accounts, etc.) and be a part of a household with a person aged 60 or older or totally disabled.

Puerto Rican residents must not exceed an income limit that varies by the number of people in the household. To calculate the net

income, deductions of income type, type of household members, and certain allowable expenses are subtracted from the total amount of income from the household. Based on the eligibility criteria, for example, a household of

three must not exceed a monthly NET income of \$1,706 to qualify.¹⁴²

Eligibility requirements for NAP did not change during the COVID-19 pandemic, but procedures to

determine eligibility were modified. The agency designated to administer NAP and its local offices, transitioned to a digital and online presence. The rules for determining the eligibility of applicants

and participants for NAP are currently under review to include the new requirements.

Puerto Rico has 751,369 households enrolled in NAP, for a total of 1,365,502 household members. There are 103,280 PWDs enrolled in NAP. NAP has no set gross income limits. The net income level is lower than SNAP, and benefits are lower.

NAP is administered via a block grant, which means the funding for NAP is capped and eligibility and benefit levels are determined based on budget instead of an individual's need. There is also no mechanism to supplement for rising food prices.

The maximum monthly food assistance benefits for Puerto Rican residents are roughly 60 percent of the maximum monthly benefits under SNAP.

Nutrition Assistance during Disasters in Puerto Rico

NAP does not have an automatic mechanism to provide disaster benefits. After the 2017 Hurricanes Irma and Maria, it took six months to receive approval of Puerto Rico's request for additional NAP funds. In contrast, in the USVI, whose residents receive SNAP, disaster assistance funds were available within 47 days.

The maximum monthly food assistance benefits for Puerto Rican residents are roughly 60 percent of the maximum monthly benefits under SNAP.

Additionally, NAP does not have an automatic mechanism to provide disaster benefits. This means that when Puerto Rico experiences a natural disaster or a recession, Puerto Rico is unable to provide relief benefits

to all in need. As an example, after the 2017 Hurricanes Irma and Maria, it took six months to receive approval of Puerto Rico's request for additional NAP funds. Whereas in contrast, in the USVI, whose residents receive SNAP, disaster assistance funds were available within 47 days. The impact from the delayed funds for Puerto Rican residents reverberates throughout the island. Puerto Rican residents are unique in that they experience a compounded issue of increased food insecurity during disasters – one more dire than their Puerto Rican residents residing in the

states.¹⁴³ **NCD recommends Congress amend the Food Stamp Act to provide expedited funding for food and nutrition benefits before, during, and after natural disasters for residents of Puerto Rico and U.S. territories, as is available in the states.**

Repercussions from the delayed funding is alarming for Puerto Rican residents, given the high rates of poverty and limited federal programs available to help low-income families meet their basic needs. Individuals with disabilities on the Island are at a greater risk.

NAP is funded through a block grant and funding levels are static. This type of funding stream allows no consideration for exceptional circumstances such as natural disasters or inflation that drive up food costs. As such, those administering the NAP program must determine

NAP is funded through a block grant and funding levels are static. . . . As such, those administering the NAP program must determine future benefits based on available funding versus need.

future benefits based on available funding versus need. Even when a resident meets eligibility requirements, Puerto Rico may be required to decrease participation or benefit levels to stay within the rigid funding

stream. When approximately 66 percent of NAP eligible households report a monthly income at or below half of the federal poverty line, eliminating or reducing their ability to purchase food during a natural disaster is unconscionable.

Puerto Rico increased the income threshold limit following the obtention of additional NAP funding in response to Hurricanes Irma and Maria. The additional funds provided an increase in program participation of about 10 percent. However, the additional funding ended in March 2019.

In the states, during Fiscal Year 2018, SNAP provided monthly benefits to approximately 39.7 million people living in 19.7 million households across the United States.¹⁴⁴ In Fiscal Year 2018, the total cost of the program to the Federal Government was \$64.9 billion, of which \$60.4 billion went to SNAP benefits and the balance to program administration. The

average monthly SNAP benefit was \$255 during Fiscal Year 2018 for participating households.

Almost 27 percent (26.6) of Puerto Rican households in the states receive SNAP or Food Stamp benefits or 498,335 citizens.

Table 4.3 reflects the income eligibility requirements for Puerto Rico and the states, which includes Guam, the USVI, and the Northern Mariana Islands.

Findings from this report show that Puerto Ricans who emigrated to the states receive

almost double the monthly benefits than those who reside in Puerto Rico. For example, a resident of New Jersey receives a 15 percent

higher monthly stipend than a resident of Puerto Rico. Disparity also exists between Puerto Rico and other U.S. territories. Monthly benefits for Puerto Rican residents are lower than those residents of the Mariana Islands. And the

Mariana Islands food assistance program is also administered through NAP.

NAP funding is dependent solely on funds provided to Puerto Rico via a block grant, and during the pandemic, the temporary additional funds provided through the Cares Act. Benefit amounts have had to be adjusted as the percentage of eligible households has increased. Prior to COVID-19, over 700,000 families and 1.3 million participants received benefits. The Family Socioeconomic Development

When approximately 66 percent of NAP eligible households report a monthly income at or below half of the federal poverty line, eliminating or reducing their ability to purchase food during a natural disaster is unconscionable.

Table 4.3: Net Monthly Income Eligibility Standards: NAP vs. SNAP

Household Size	NAP Net Monthly Income threshold	NAP Net Monthly Income threshold	SNAP Net Monthly Income threshold
	Puerto Rico (March 2019)	Commonwealth Northern Mariana Islands (FY2021)	48 States and DC ¹⁴⁵ USVI Guam (FY2021)
1	\$619	\$1,064	\$1,064
2	\$1,179	\$1,437	\$1,437
3	\$1,706	\$1,810	\$1,810
4	\$2,206	\$2,184	\$2,184
5	\$2,666	\$2,557	\$2,557

Table 4.4: NAP/SNAP Maximum Benefit Fiscal Year 2021

Household Size	NAP Maximum Monthly Benefit			SNAP Maximum Monthly Benefit			
	After Adjustments March–June 2019	FY 2021	FY 2021	FY 2021	FY 2021	FY 2021	FY 2021
	Puerto Rico	Saipan	CNMI Tinian	Rota	48 States and DC ¹⁴⁶	USVI	Guam
1	\$146	\$300	\$317	\$365	\$204	\$262	\$300
2	\$274	\$551	\$582	\$670	\$374	\$481	\$551
3	\$381	\$789	\$834	\$960	\$535	\$688	\$789
4	\$493	\$1,002	\$1,059	\$1,219	\$680	\$874	\$1,002
5	\$600	\$1,190	\$1,257	\$1,448	\$807	\$1,038	\$1,190

Administration (ADSEF) reports that for 2017 there were about 1.5 million participants of which 103,280 are PWDs who are currently enrolled in NAP.¹⁴⁷

Block grant funds for NAP are 25 percent below the expenditures for a similarly situated program under SNAP. Allocations for NAP also do not include annual adjustments for inflation, creating a larger disparity between the two programs over time. Puerto Rican residents receive disparate treatment in the disbursement of SSI, Medicare, and Medicaid benefits. Leaving residents with little to no expendable income, it is of utmost importance that Puerto Rico’s food assistance program is able to provide residents of Puerto Rico with the basic needs of access to food and provide food security.¹⁴⁸

According to a confidential interview with a Puerto Rico Family Department representative regarding the differences in food assistance

benefits in Puerto Rico versus the states, the interviewee said:

“I could not give you specifics, but obviously the program is based on family income, and the number of relatives living in the house, and the specific needs of the family members. They are extremely restrictive. No, they do not promote the

Allocations for NAP also do not include annual adjustments for inflation, creating a larger disparity between the two programs over time.

individual growth of a human being, because if you manage to improve your salary a little, then they take the benefit away from you. I’ve had the opportunity to assist, within our facilities, a participant with a disability who only received nutritional assistance of \$60 per month to live. She is a person who has a whole series of supply and support needs that no one provides in Puerto Rico, support that Medicaid and other benefit programs supply in the United States to the population with disabilities.”¹⁴⁹

Other stakeholders expressed that the process to qualify for benefits in the states was less complicated and more accessible. Preliminary assistance was provided by telephone, delivery of documents by fax, and determination of application received by postal mail. In contrast, in Puerto Rico, the process is lengthy and strictly face-to-face. This past year, since the pandemic, the program has been administered virtually. It is uncertain as to whether Puerto Rico will continue that practice once federal agencies are able to reopen.

Over the last two years, Puerto Rico was awarded supplemental funding through the Families First Coronavirus Response and CARES Act of March 2020, which allowed Puerto Rico to expand the capped benefits and serve more NAP participants for a limited period (May–July 2020) adding \$300 million to the nutrition assistance block grants in Puerto Rico and other territories.¹⁵⁰

In addition, short term assistance included a 15 percent increase in the COVID-19 relief bill and recent American Rescue Plan Act, which added \$1 billion in funding for nutrition assistance for the Island and other territories that receive NAP. While these increases filled a critical void, they were only for a limited time. So, when the funds ran out Puerto Rico once again was required to severely cut benefits by 40 percent for all households with

[W]hen the [COVID relief] funds ran out Puerto Rico once again was required to severely cut benefits by 40 percent for all households with the average benefit dropping from about \$323 in July 2020 to about \$188 by October 2020 . . .

the average benefit dropping from about \$323 in July 2020 to about \$188 by October 2020,¹⁵¹ thus lowering benefits when many were still reeling

from the effects of the pandemic. This, coupled with the fact noted previously that most NAP participants receive lower benefits than if they received SNAP, and they are subjected to comparable if not higher food prices than in the states.¹⁵² The temporary funding did not address the systemic inadequacy and instability of NAP thus exacerbating food insecurity on the island and other territories.

The modest NAP benefits are insufficient to meet the basic nutritional needs of the island's most vulnerable residents. In 2018, over two-fifths of all residents of Puerto Rico (43 percent) and over half of all children in Puerto Rico (57 percent) lived in poverty.¹⁵³ Moreover, about one-third of the adult residents of Puerto Rico experienced food insecurity.¹⁵⁴ Puerto Rican residents are disparately

In 2018, over two-fifths of all residents of Puerto Rico (43 percent) and over half of all children in Puerto Rico (57 percent) lived in poverty. Moreover, about one-third of the adult residents of Puerto Rico experienced food insecurity.

treated in the allocation of funds for food assistance programs. Because of the disparate funding, Puerto Rico is unable to provide much needed food assistance to all qualified families. **NCD recommends Congress amend the Food Stamp**

Act to include Puerto Rico, the Northern Mariana Islands, and American Samoa in the SNAP program, as has been done for Guam and the USVI.

Chapter 5: Education

Factors Impacting Education

Multiple factors impact the quality of education provided to PWDs in Puerto Rico. They include lack of financial resources and the impact of natural disasters as well as mandated internal controls and monitoring plans to monitor the distribution of federal funds. The imposition of additional conditions prior to the release of funds significantly delayed the island's recovery and directly impacted educational services for Puerto Rican students with disabilities during the COVID-19 pandemic. Federal funds are distributed via a formula to ensure equal distribution among the states and territories. However, those formularies do not factor in Puerto Rico's extremely high poverty rate and increased cost for services on the island. **NCD recommends Congress amend IDEA's funding formula to mitigate the high incidence of poverty and the island's increased cost to provide services to students with disabilities.** Equitable redistribution of funds by considering the financial resources and cost of services for a region will mitigate the unintended disparate impact of the current formulas.

Students with disabilities are required by federal law to be provided a free, appropriate public education. The Individuals with Disabilities Education Act (IDEA) is a federal law designed to ensure that children with disabilities be granted a free and appropriate public education, in the least restrictive environment. The law applies to all U.S. territories, including Puerto Rico.

IDEA has four parts, Parts A, B, C and D. Part A covers the general provisions of the law;¹⁵⁵ Part B is the largest part of IDEA and

accounts for 95 percent of appropriations dedicated to state grants programs, preschool programs, and all children with disabilities.¹⁵⁶ Children from two years old through high school (or age 21) can apply for early intervention and special education programs if they meet one of the 13 eligibility criteria from the following categories: specific learning disability (dyslexia, dyscalculia, dysgraphia, nonverbal learning disability, and auditory processing disorder); other health impairments; autism spectrum disorder; emotional disturbance; speech or language

impairment; visual impairment; deafness; hearing impairment; deaf-blindness; orthopedic impairment; intellectual disability; traumatic brain injury; and multiple disabilities.¹⁵⁷ Part C funds offer early intervention services to infants and toddlers with disabilities, covering ages birth to 3 years old, and Part D includes competitive grants to improve state personnel development, personnel preparation and technical assistance, model demonstration projects, and support to improve results for children with disabilities.¹⁵⁸

IDEA supports states and localities in their efforts to aid children and youth with disabilities, as well as their families, by protecting their rights, meeting their individual needs and improving their educational outcomes.¹⁵⁹ An Individualized Educational Plan (IEP) under IDEA is federally mandated and requires the school system to implement and adopt their provisions. The IEP is a plan that ensures that a child with a disability receives adequate educational services that respond to their individual needs. For students who don't require an IEP, schools can create a 504 Plan for students with disabilities that are not eligible for services under IDEA. The 504 plan eliminates barriers and provides support services that allow equal access to educational services for students with disabilities.¹⁶⁰

The Office of Special Education Programs (OSEP) oversees IDEA. OSEP leads the efforts to improve outcomes for children with disabilities, from birth through age 21, ensuring access to fair, equitable, and high-quality education and services.¹⁶¹ OSEP authorizes formula grants to states under Part B, formula grants to lead agencies for the infants and family's program under Part C, and discretionary grants under Part D to support grants for state personnel development, technical assistance

and dissemination, technology, personnel development, parent-training and information centers.¹⁶²

Funds are allocated to the states in accordance with a variety of factors, as outlined in the funding formula under Section 611(d) of IDEA.¹⁶³ At a minimum, state and territory regulations must provide all of the protections included under IDEA.¹⁶⁴ IDEA allows the states and territories to interpret the rules and approve additional regulations related to special education.¹⁶⁵ IDEA requires a minimum set of rules and regulations but beyond these minimums, states and territories can establish additional parameters that could benefit students with disabilities. Grants to state programs provide formula grants to assist the 50 states, the District of Columbia, Puerto Rico, and the territories. To be eligible for Part B funding, states must serve all children with disabilities between the ages of three through 21.¹⁶⁶ Funds under this program are combined with state and local funds to provide fair, appropriate, public education to children with disabilities.¹⁶⁷

Allowable expenditures for states and territories are the same. Expenditures include the salaries of special education teachers and costs associated with related services personnel, such as speech therapists and psychologists.¹⁶⁸ States may use these federal funds reserved for other state-level activities for a variety of specified activities, including support and direct services; technical assistance and personnel preparation; assisting Local Education Agencies (LEAs) in providing positive behavioral intervention and support; and improving the use of technology in the classroom.

States and territories have faced challenges acquiring specialized services and personnel

needed to comply with federal IDEA requirements.¹⁶⁹ Many states and territories don't have funding for these services and personnel costs.¹⁷⁰ Unfunded federal mandates and are an economic burden to states and territories with insufficient resources.¹⁷¹

Education Services in Puerto Rico

Puerto Rico's 2020 fiscal plan includes funding for the Puerto Rico Department of Education (PRDE), the territory's largest government agency, which is responsible for providing education to approximately 289,000 K-12 students throughout the island in 856 schools.¹⁷² PRDE submits an application to the U.S. Department of Education (ED) to obtain federal funds under the Individuals with Disabilities Education Improvement Act.

PRDE is required to develop a Strategic Plan or State Performance Plan (SPP) in accordance with IDEA regulations and submit an annual performance plan. The SPP is presented annually to the public for comments and submitted to OSEP for review.

PRDE's Special Education Program provides services to students with disabilities that impact their academic process. The program is offered to students with disabilities through services established according to individual needs. This program is regulated by IDEA and various local laws.^{173,174}

Approximately 35 percent, 103,318 out of 289,000, of students between the ages of three

and 21 receive special education services in Puerto Rico.¹⁷⁵ In the states, special education services account for 10 to 12 percent of the school population, whereas in Puerto Rico it's 32 to 33 percent. Stakeholders reported that according to the IDEA, funds are applied to Puerto Rico under the same formula as other states. Other stakeholders reported gross differences in service provisions between the United States and Puerto Rico in terms of

access to services, specialists, transition services, employment, and post-secondary education opportunities.

The formulary used to determine grant amounts to states and

territories is codified in statute within the IDEA § 1411(a)(2)(B)(i), (ii), (iii). The formulary factors the number of children with disabilities during the school year receiving special education and related services, and multiplies the average pupil

expenditure in public elementary schools and secondary schools in the states by 40 percent.

If additional funds are still available after other required allocations, part

of the formulary does factor in a state's relative population of children without disabilities living in poverty. The current formula does not equitably distribute education funds and disparately impacts states and territories experiencing high rates of poverty. **NCD recommends Congress**

amend IDEA's funding formula to mitigate the high incidence of poverty and the island's increased cost to provide services to students

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In the states, special education services account for 10 to 12 percent of the school population, whereas in Puerto Rico it's 32 to 33 percent.

with disabilities. Equitable redistribution of funds by considering the financial resources and cost of services for a region will mitigate the unintended disparate impact of the current formulas. Appendix D contains detailed data on students with disabilities aged 6 to 21 who receive special education services in Puerto Rico and other U.S. territories.

PRDE provides services through two programs. The first is the Special Education Program, known as the Special Education Auxiliary Secretary (SAEE for its Spanish acronym), which offers educational and therapeutic services to students, and the second is the Provisional Remedy Program (PRP), which only offers non-educational support services to students.¹⁷⁶ Under IDEA, schools must identify, locate, and evaluate all children with disabilities regardless of the severity of that disability and provide them with an IEP tailored to each child's needs.¹⁷⁷ If PRDE does not provide the necessary services within 30 days of a request for services to SAEE and the writing of the IEP, the student may receive services through the alternate PRP.¹⁷⁸ Stakeholders have stated that wait times for special services can far exceed the 30-day period.

Dispute resolution tools to challenge an IEP are the same in Puerto Rico as they are elsewhere (mediation, state complaint, and due process hearing). However, as a result of a class action lawsuit, *El caso Rosa Lydia Vélez v. Departamento de Educación de Puerto Rico*, the PRP was created in Puerto Rico.¹⁷⁹ The ruling demands that PRDE offer therapeutic services to special education students, whose only obstacle to receiving regular services was the limitation of SAEE resources, once their eligibility is approved.¹⁸⁰

During Fiscal Year 2020, approximately 11,000 special education services were provided through

PRP at four to five times the normal cost of services provided by SAEE.¹⁸¹ PRP accounts for only 6 percent of the therapy services provided to students, but accounts for almost 30 percent of the total budget.¹⁸² The PRDE Special Education Program offers services for evaluations, therapies (occupational, educational, speech, language, physical), technological assistance, and transportation.¹⁸³ Parents of children with disabilities expressed frustration in the responsiveness and timeliness of receiving required services.

In Fiscal Year 2019, PRDE provided transportation to approximately 18,000 students, equivalent to approximately 84 percent of those eligible under the minimum income and distance from school rule. Transportation is also provided to approximately 12,000 special education students, equivalent to 55 percent of students requiring transportation based on their IEP as of March 2020. These services were provided in a fragmented manner, with more than 250 vendors and 35 municipalities providing services. PRDE spent approximately \$94 million on student transportation services, nearly all funded through general funds. Transportation accounts for approximately 11 percent (\$94 million) of general funds spending. Approximately 60 percent of transportation expenditures (\$56 million) supports transportation for special education students.¹⁸⁴

The average annual transportation cost for a special education student in Puerto Rico is approximately \$4,600, more than double the cost incurred to transport others who are not special education students.¹⁸⁵ Federal IDEA funds can be used for transportation. However, ED prohibited PRDE from using IDEA funds for transportation services. ED stated the reason for the prohibition was SAEE's noncompliance with certain

provisions under IDEA. The noncompliance cited was improper payments, lack of internal controls, noncompliance with agency policies, and lack of adequate supervision regarding the issuance of payments for transportation services to students in the Special Education Program.¹⁸⁶ Because of this prohibition, PRDE is required to fund transportation for special education students through Puerto Rico's general fund until the special conditions, a third-party fiduciary agent (TPFA) and monitoring plans governing distribution of funds imposed by ED, are met.¹⁸⁷ These restrictions have created additional financial stress on local governments and created a scenario in which the Commonwealth does not have the resources to transport all special education students.

As of March 2020, approximately 9,800 special education students did not have access to transportation, placing the burden on the parents to transport their children to school.¹⁸⁸

Addressing special educational needs is a challenge and an indicator of the capacity of the system to offer the highest quality education possible. Limited or inappropriate resources are regarded as significant barriers to ensuring inclusive education for children receiving special education services.¹⁸⁹ Inadequate training and support for teachers, as well as physical and technological barriers make it difficult for students with disabilities to participate. Year after year, the parents of students with special needs express dissatisfaction with educational services offered by PRDE. Parents interviewed as stakeholders for the purposes of this report agree that special

education services provided for their children are not as robust as they could be.¹⁹⁰

A lack of adequate funding to provide services and slow recovery from natural disasters and the pandemic create barriers to the provision of a free, appropriate public education that is accessible and inclusive to students with disabilities. PRDE and the Vocational Rehabilitation Administration (VRA) have attempted to adjust to their environment in the wake of Hurricanes Irma and Maria, the recent earthquakes, and COVID-19.

In 2017, Hurricanes Irma and Maria caused nearly \$100 billion in damage and devastated core parts of Puerto Rico's educational infrastructure.¹⁹¹ Consequently, Congress recognized Puerto Rico's

In 2017, Hurricanes Irma and Maria caused nearly \$100 billion in damage and devastated core parts of Puerto Rico's educational infrastructure.

need and appropriated \$589 million for K-12 school recovery under the Immediate Aid to Restart School Operations (RESTART) program.¹⁹² Congress designated the Education

Stabilization Fund within the CARES Act to provide resources to states and local educational agencies. ED established a set of internal controls for fund recipients, and required PRDE to abide by the same internal controls articulated in the RESTART program and additional internal controls and monitoring plans for oversight of the fund's distribution.

As mentioned earlier in this chapter, in 2019, ED notified PRDE that specific conditions were being imposed based on information provided to ED by the PRDE Internal Audit Office.¹⁹³ The special conditions required PRDE to retain a TPFA to perform the financial management duties required under federal regulation.¹⁹⁴

PRDE posted a request for information in search of a TPFA in October 2019 and a TPFA was finally in place in the spring of 2021. In March 2021, U.S. Secretary of Education Miguel Cardona notified the Governor of the Commonwealth of Puerto Rico the Commonwealth had immediate access to federal education funds, which were not previously available

because of the lack of a TPFA.¹⁹⁵

The earthquakes in January 2020 and COVID-19 severely impacted the quality of education services for Puerto Rican children with disabilities and disparities in funding between the states

and Puerto Rico were apparent. The CARES Act recognized that for education services to continue in the midst of COVID-19 and to guarantee the safety of our nation's children, school districts would need to adapt systems and protocols, acquire technology and safety equipment, and hire staff and specialists

needed to restart schools safely with low risk of transmission. To further this process along, the CARES Act created the Elementary and Secondary School Emergency Relief Fund (ESSER) and the Governor's Emergency Education Relief Fund (GEER). PRDE and Puerto Rico's Governor should have received

\$349,113,000 under the ESSER Fund, and \$47,812,236 under the GEER Fund, respectively. However, the ED Risk Management Services informed PRDE that they would not be receiving the funds allocated to assist in reopening schools because the TPFA was not in place.¹⁹⁶

[T]he ED Risk Management Services informed PRDE that they would not be receiving the funds allocated to assist in reopening schools because the TPFA was not in place. No other states or territories were given these conditions for the release of funds . . .

No other states or territories were given these conditions for the release of funds, which delayed receipt of funds and drastically convoluted the funds' original purpose, thus impeding Puerto Rican children from returning to school and receiving a free, appropriate public education.

Chapter 6: Employment

Employment Disparities

Only 23.7 percent of Puerto Rican residents with disabilities actively participate in the workforce, compared to 36 percent in the states and 44 percent in other U.S. territories. The lack of employment opportunities on the island exacerbates the poverty level, which is significantly higher than any of the states. Identical employment programs exist on the island as are in the states, and funding for those programs is distributed equally among states and territories. However, the funding provided for Puerto Rican residents with disabilities is not sufficient to address the unique unemployment needs of PWDs in Puerto Rico. **NCD recommends Department of Education amend 34 CFR 361.60, the cost sharing requirement for state vocational rehabilitation services grants, to allot for an exemption to the cost sharing requirement if a state or territory can prove they are fiscally incapable of providing the cost share portion.** Equitable distribution of funds to grantees will mitigate the unintended disparate impact of the current formula stipulations.

Therefore, a state or territory already in financial distress is not penalized or precluded from gaining access to federal funds solely because of its economic status.

NCD recommends the Commonwealth of Puerto Rico implement tax incentives for employers who hire persons with significant disabilities, similar to established state programs.

In 2018, the average employment rate for people with disabilities in the United States and Puerto Rico was 37.8 percent. The employment rate for people without disabilities was 80.0 percent.¹⁹⁷ Puerto Rico's employment rate for PWDs was much lower at 23.5 percent compared to 58.3 percent for those without

disabilities.¹⁹⁸ Unemployment rates for PWDs in Puerto Rico were much higher among people with a disability.¹⁹⁹

Several factors contributing to the unemployment of people with disabilities are the island's slow recovery from recent hurricanes and earthquakes, the mass exodus

of professionals who would otherwise be job creators on the island, and the pandemic. This results in a lack of opportunities and greater poverty, which further increases dependence on family members or government assistance. Puerto Rico has a poverty rate of 48 percent compared to the states (22.5 percent).²⁰⁰ Puerto Rico's poverty rate is more than double that of Mississippi at 19.7 percent, and Mississippi had the highest poverty rate of any state in 2018. As is true in the states, Puerto Rico's metropolitan area offers better access to employment, community, and transportation.²⁰¹

Federal Employment Programs and Services in Puerto Rico, the United States, and U.S. Territories

Employment support for people with disabilities comes from various agencies available to all prospective employees with disabilities in Puerto Rico as well as in the states and territories.

Examples of these agencies are the State Vocational Rehabilitation Agencies (SVRAs), Employment Networks under the Social Security Ticket to Work Program (TTW), state or local Workforce Investment Boards (WIBs) and American Job Centers (AJCs), Developmental Disability Agencies (DDA), and Centers for Independent Living (CILS), among others.²⁰²

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Department of Labor and Human Resources

In Puerto Rico, all coordinated employment services are managed under the Department of Labor and Human Resources (DTRH). The mission of the DTRH of Puerto Rico is: "[. . .] the identification, training, and transformation of the workforce, ensuring labor rights, promoting the

creation of more and better jobs, the security, social and economic well-being of workers, [. . .]"²⁰³ This includes protecting PWDs from discrimination and ensuring equal access to services and equal

employment opportunities, rights that are covered under the ADA and Rehabilitation Act of 1973. DTRH has employment programs and services that support obtaining employment for PWDs.

Vocational Rehabilitation Programs

The Rehabilitation Services Administration (RSA) oversees four assistance programs that

service PWDs to achieve successful employment outcomes. These are the Vocational Rehabilitation Service Program (VR) and the Supported

Employment Service (SE), both being state formula grant programs; the American Indian Vocational Rehabilitation Service Program (AIVR); and the Demonstration and Training programs, which are discretionary grant programs with up to five years of competitive awards. Additionally,

federal agencies are required to comply with the Randolph-Sheppard Act, which prioritizes blind vendors on federal or other properties with program compliance overseen by RSA. The funds to support blind vendors are provided by VR program funds and authorized by SVRA programs.²⁰⁴ In the United States, most of the RSA and VR agencies are overseen by the Department of Education (ED), however, in Puerto Rico, this program falls under the Department of Labor (DOL).

The Vocational Rehabilitation Administration (VRA) is the primary agency that provides employment services for PWDs in Puerto Rico. Among the different federal programs and benefits offered by VRA, related to employment, are the Sustained Employment Program (SE), the Public Corporation for the Blind Industry (PCBI), the Self-Employment Program, the Subsidized Employment Program (SEP), and the Independent Living Program (IL).²⁰⁵

The SE program, administered by the VRA, offers PWDs assistance in job training and job placement services. The program offers skill evaluation, skill development training, job training, and placement, with the assistance of a job trainer.²⁰⁶ In addition, it administers the Public Corporation for the Blind, which manufactures mops and exclusively hires people who are blind paying a minimum wage of \$7.25 per hour.²⁰⁷ SEP provides PWDs with training and funds to acquire the necessary equipment to set up their own business. SEP offers employers an incentive, or subsidy, to

provide PWDs employment opportunities. These subsidies are temporary and usually phase out after a pre-agreed term among VRA and the employers. VRA also funds CILs and IL service providers who offer services to PWDs interested in pursuing and achieving independent living goals.

VRA also provides support services to PWDs by providing assistance through educational and vocational programs. Examples of some services are readers for the blind, orientation and mobility training, Braille training, sign language interpreters, personal assistant services, medical services, or related services for rehabilitation, food stipends, payment of

professional licenses, transition services, tuition payment for educational institutions, rehabilitation counseling, and career exploration services.

For a PWD to be determined eligible for

vocational rehabilitation services, they must meet the two criteria identified in Section 102(a) (1) of the Rehabilitation Act.²⁰⁸ The first criteria is that the person has a disability as specified in Section 7(8)(A) of the Rehabilitation Act. This definition has two elements: (1) having a physical or mental impairment that, for that person, constitutes or results in a substantial impediment to employment, and (2) the person can benefit from vocational rehabilitation services in terms of an employment outcome.²⁰⁹ The second criteria for eligibility is that the PWD must require VR services to prepare for, enter, engage in, or retain gainful employment.²¹⁰

In the United States, most of the RSA and VR agencies are overseen by the Department of Education (ED), however, in Puerto Rico, this program falls under the Department of Labor (DOL).

Each state and territory has at least one VR program that serves all individuals with disabilities. In some states, a Commission for the Blind is also available through federal funding. In Puerto Rico and the other U.S. territories, this program falls under VRA. Federal funds for VRA are

based on the statutory formula that takes into account population and per capita income in determining the amount made available to each grantee for VR program purposes.²¹¹

In its 2017–2020 government transition report, the Puerto Rico VRA noted that 78.7 percent of the funds allocated to the agency are federal funds with the remaining 21.3 percent from state funds.²¹² The annual budget for 2017 was \$56,762,321; for 2018 it was \$68,027,392; for 2019, it was \$44,857,077; and for 2020 it was \$44,664,306.²¹³

VR funds are allotted to state agencies via a formula. Federal statute requires each year's appropriation be equal to the prior year's appropriation plus an increase equal to inflation.²¹⁴ Puerto Rico receives the maximum percentage of funds available to any state or territory, set at 75 percent.²¹⁵ Each state is required to match a portion of its federal grant.²¹⁶ The cost sharing percentage for all states and territories is 21.3 percent of the total program cost.²¹⁷ If a grantee is not able to provide its cost share obligation,

the unmatched funds must be returned and are made available to other states.²¹⁸ In 2018, Puerto Rico received \$68,027,392 in grant funding. In 2021, they received \$68,469,627 but relinquished \$19,292,383. In 2020, Puerto Rico was awarded \$67,570,718 and relinquished \$22,906,512,

presumptively because of the island's financial constraints and inability to provide the matching funds.

A stakeholder indicated that, because of Puerto Rico's economic status, the Federal Government's

requirement to match funds often leaves federal funds unused because of Puerto Rico's inability to procure funds for the match. This further impedes and limits the services provided to PWDs.

In 2020, Puerto Rico was awarded \$67,570,718 [in VR funds] and relinquished \$22,906,512, presumptively because of the island's financial constraints and inability to provide the matching funds.

In its 2017–2020 government transition report, the Puerto Rico VRA noted that 78.7 percent of the funds allocated to the agency are federal funds with the remaining 21.3 percent from state funds.

NCD recommends Department of Education amend 34 CFR 361.60, the cost sharing requirement for state vocational rehabilitation services grants, to allot for an exemption to the cost sharing requirement if

a state or territory can prove they are fiscally incapable of providing the cost share portion.

Supported Employment (SE) for Individuals with Significant Disabilities

Supported Employment (SE) is a service that supports people with significant disabilities to

obtain, maintain, and retain competitive and continuous employment. In Puerto Rico, these services are provided by sub-contractors. Puerto Rico's Office of Support and Employment Modalities indicated that for the year 2020, 319 PWDs were provided services under the sustained employment mode.²¹⁹

Transition Services Under VRA

Transition Services under VRA provide youth with disabilities education and training to attain adequate skills and empowerment that will allow them to compete successfully in the job market. The primary agency responsible for providing these transition services is vocational rehabilitation, both in Puerto Rico, the states, and the territories.

The Workforce Innovation and Opportunity Act (WIOA) amends the Rehabilitation Act of 1973 and now requires vocational rehabilitation agencies to set aside at least 15 percent of their federal funds to provide "pre-employment transition services" to "students with disabilities who are eligible or potentially eligible for VR services."²²⁰

The transition services in the states and territories are mandated by the IDEA and WIOA. Under IDEA a student with disabilities in the transition program is focused on independent living skills that include vocational education.²²¹

Meanwhile, WIOA services focus on students with disabilities under the age of 21, and the transition required for job counseling, work-based learning experience, counseling on comprehensive transition and post-secondary educational programs, training for development of independent living and social skills, and introduction to self-advocacy.²²²

In Puerto Rico, transition services are provided by VRA subcontracted agencies. These agencies are required to provide trainings that support youth in transition by increasing their knowledge in subjects regarding their rights, self-defense, workforce, and independent living skills. They must also administer vocational interest tests, offer job fairs, and provide career counseling to youth with significant disabilities receiving special education services or with a Section 504 plan. In Puerto Rico, VRA subcontracted agencies' provided services to 59,775 people from 2017 to 2020. They had 5,900 new applicants; with 4,675 referrals to transition (14–21 years).²²³ The Agency also reports (2017–2020) that under Law 51 of the Puerto Rico Department of Education, a total of 14,329 parents, 4,969 teachers, and 15,110 students in transition services attended workshops.²²⁴

Stakeholders' Views on VRA Services

Stakeholders with disabilities stated some of the challenges faced when requesting services at the Puerto Rico VRA is that counselors discourage people with significant disabilities from seeking services. Counselors underestimate the capabilities of people with significant disabilities and limit their access to programs and opportunities. When services are sought there's often a long evaluation process with many delays in provided services. Once a PWD is 21 years of age or older, CILs provide services to PWDs after they conclude services with the ED. However, in Puerto Rico there are only two agencies who manage the five CILs available in Puerto Rico. These centers do not service all the municipalities on the island and the majority are underfunded.

Some stakeholders that had previously resided in the states, said that "in the United States, they

are able to find jobs for PWDs and that employers take the time to help. There might be nonprofit organizations that help, but in Puerto Rico, it's more limited."

Social Security Administration

The Social Security Administration (SSA) also administers employment programs through the Work Incentives Improvement Act of 1999. One of the programs currently available in Puerto Rico is the Employment Network (EN) Ticket to Work (TTW) program, which provides support to beneficiaries of SSA disability programs and SSDI, with job search and placement efforts to those who want to return to the workforce.²²⁵

Currently, only two active ENs exist in Puerto Rico, Movimiento para el Alcance de Vida Independiente (MAVI) and Alianza Municipal de Servicios Integrados (AMSI). The other program available (that is not an EN) is the Work Incentives Planning and Assistance Program (WIPA) whose goal is to support beneficiaries with disabilities with information on work incentives for a successful transition to work.²²⁶ Between 2014 and 2020, the WIPA program in Puerto Rico has assisted approximately 500 SSDI beneficiaries per Fiscal Year to reenter the workforce.

Tax Incentives to Employers

In Puerto Rico, the Internal Revenue Code of Puerto Rico offers a tax deduction for employers

that hire people with significant disabilities who participated in VR services, a deduction of \$400 dollars per person with disabilities and a right to claim a maximum of 5 PWDs. Each employee must work a minimum of 20 hours per week.²²⁷ In the states, employers that provide PWDs employment opportunities receive IRS tax credits such as the Disabled Access Credit, the Barrier Removal Tax Reduction, and the Work Opportunity Tax Credit. The differences among the states and territories are due to differences in tax structures.

NCD has documented that increased employment for PWDs benefits PWDs by

increasing their economic stability and independence and benefits the overall economy. It also decreases government dependence and increases diversity in the workforce. Therefore, employment

[Puerto Rico VRA] counselors discourage people with significant disabilities from seeking services. Counselors underestimate the capabilities of people with significant disabilities and limit their access to programs and opportunities.

for PWDs is not a "them" issue, but one that impacts us all.²²⁸

Research conducted in 2018 found that 81 percent of employers interviewed on the island understood that PWDs have the skills and knowledge to apply for a competitive job opportunity.²²⁹ Perhaps if provided greater tax incentives these employers would be willing to extend even greater job opportunities to PWDs.

NCD recommends the Commonwealth of Puerto Rico implement tax incentives for employers who hire persons with significant disabilities, similar to established state programs.

Chapter 7: Housing

Housing Disparities

Accessible homes in Puerto Rico are limited and directly impact the ability of a person with a disability to live independently. The impact of natural disasters on the island has critically weakened housing stock and impacted Puerto Rico's infrastructure, contributing to the extremely limited affordable accessible housing on the island. This, coupled with untenable waiting lists for accessible and affordable housing and numerous systemic and longstanding accessibility issues,^[1] makes acquiring housing challenging. **NCD recommends the U.S. Department of Housing and Urban Development (HUD) require that all federally assisted housing units follow universal design principles and ensure that accessible housing units reflect the percentage of people with disabilities in need of federal housing assistance.**

Affordable and accessible housing is a necessity for PWD's to achieve independence. In Puerto Rico,²³⁰ PWDs face multiple social disadvantages that preclude them from that status such as high poverty levels, low employment rates, low educational attainment,^{231,232} and the overwhelming challenge to attain affordable and accessible housing. Federal funding is available for housing service assistance throughout different federal programs. However, gaining access to these programs can prove elusive. These programs are available across the states and all the territories for which formulas and methodologies are similar in the application

for the determination of funding amounts to the SLTTs.

Discretionary funds are awarded by HUD through 20 grant programs that support all HUD initiatives.²³³ Funding for HUD programs comes from discretionary appropriations provided each year in the annual appropriations acts, typically as a part of the Transportation, HUD, and Related Agencies Appropriations Bill.²³⁴

HUD Programs

Available HUD programs include: the Tenant-Based Rental Assistance (housing choice vouchers); Project-Based Rental Assistance; Public Housing; Housing for the Elderly

(Section 202); and Housing for People with Disabilities (Section 811). “HUD programs are designed to assist residents with very low incomes or other special housing needs.”²³⁵ Three rental assistance programs: Section 8 tenant-based rental assistance (which funds Section 8 Housing Choice Vouchers); Section 8 project-based rental assistance; and Public Housing, account for the majority of the department’s funding (nearly 80 percent of total HUD appropriations in Fiscal Year 2017).²³⁶ In addition, two flexible block grant programs, HOME and the Community Development Block Grant (CDBG) program, help communities finance a variety of housing and community development activities designed to serve low- and moderate-income families.²³⁷

HUD sets eligibility requirements for their programs. The local Public Housing Agencies (PHAs) determine eligibility based on annual gross income, whether the person is a senior citizen, PWD or family member, a U.S. citizen or eligible immigrant, and other local factors.²³⁸ These other local factors vary by state. HUD sets income limits that determine eligibility for assisted housing programs and develops income limits based on a multitude of factors.

The income limits are determined by HUD where the low-income limit is 80 percent of the median county income, and the very low-income limit is 50 percent of the median income for the county.^{239,240} The income levels for Puerto Rico and the five states chosen for comparison purposes in this report demonstrate that the income level eligibility criteria are different for Puerto Rico when compared to the states. Table 7.1 presents Puerto Rico’s income level eligibility for 2021.

Housing in Puerto Rico, the United States, and U.S. Territories

Housing is a major challenge for Puerto Ricans with disabilities, as is the case for other territories, specifically due to natural disasters like hurricanes and earthquakes, which have destroyed properties and infrastructure that will impact the territories for years to come.²⁴² On the Island, HUD provides housing through Section 8 and public housing programs. There are 20 housing facilities subsidized by federal funds; however, they are mainly for people aged 62 or older.²⁴³ In terms of funding, the Department of Housing (DOH) in Puerto Rico has a budget of \$477,965,000 for Fiscal Year 2021.²⁴⁴

Table 7.1: Fiscal Year 2021 Income Limits for Puerto Rico Adjusted by 4-Person Federal Poverty Guidelines (Prepared: April 1, 2021)²⁴¹

Adjusted Income Limits	1-Person	2-Person	3-Person	4-Person
30% Income Limits	\$11,150	\$12,750	\$14,350	\$15,900
50% Income Limits	\$18,550	\$21,200	\$23,850	\$26,500
80% Income Limits	\$29,700	\$33,950	\$38,200	\$42,400
100% Income Limits	\$37,100	\$42,400	\$47,700	\$53,000
120% Income Limits	\$44,550	\$50,900	\$57,250	\$63,600

Note: The rounded 4-person income limit is adjusted for person sizes and then rounded up \$50.

The DOH of Puerto Rico has three branches: the Housing Department, the Puerto Rico Housing Finance Corporation, and the Puerto Rico Public Housing Administration (PHA). The Housing Department oversees the following divisions: the Information System division, Human Resources division, Subsidy and Community Development division, Acquisition and Sale of Properties division, Project Management and Development division, and the Strategic Planning division. Its mission is to increase the housing inventory, manage existing public housing projects, and offer subsidy programs to low- and middle-income individuals and families to provide a safe and proper home that contributes to improving their quality of life and self-sufficiency.

The Housing Finance Corporation's main mission is to promote the development of affordable housing and provide financing facilities, subsidies, and incentives so that people can purchase or rent an appropriate home.²⁴⁵ The Public Housing Administration in Puerto Rico was created by Law 66 of 1989, and its vision is to improve the quality of life of residents in public, residential projects by fostering community activity and personal and family development of its residents. The agency receives funding from the Federal Housing Act of 1938 that provides 100 percent of funding for the Puerto Rico-PHA. These funds can be used for providing transportation to PWDs and making accessibility modifications to housing units. Those funds are insured annually in the budget granted by Congress to the federal agency.

Federal fair housing laws are the Fair Housing Act, ADA, and Section 504 of the Rehabilitation Act. The Fair Housing Act accessibility standards require that a minimum of 5 percent of the total

public housing dwelling units be accessible for individuals with a mobility disability.²⁴⁶ Puerto Rico has more than 5 percent with a total of 53,000 housing units of which 4,100 are accessible, representing 8 percent of accessible units. The Puerto Rico-PHA operational funds are 100 percent from federal funds and therefore require no state matching.

Puerto Rico has the second largest housing project in the United States, second only to New York City.²⁴⁷ Yet it is important to note that this does not equate to greater housing opportunities for PWD's. In 2016, HUD reached a \$65 million settlement with Puerto Rico PHA to improve accessibility for residents with disabilities. The goal was to address "longstanding accessibility issues affecting PWDs."²⁴⁸

PHA was required to retrofit 2,560 housing units by December 31, 2021, to ensure accessibility. This five-year agreement required PHA to set aside \$3.6 million each year to retrofit 1,489 additional units, to create 1,209 units in 184 existing housing projects, to make accessible units in 25 project sites, and to produce 1,024 sensory-accessible units by 2017.^{249,250}

It is important to emphasize that construction materials used for housing in Puerto Rico differ from those used in the states as well as the construction codes due to the geographical location of the island and its propensity to natural disasters such as hurricanes and earthquakes.²⁵¹ These materials are more expensive, which, in turn, lead to higher costs per unit resulting in a limited amount of housing compared to the demand on the island. Before Hurricane Maria, there were only 2,500 public housing units available, and 25,000 people were on the waiting list.²⁵²

As of 2021, the PHA has approximately 4,100 public housing units certified for PWDs

and 360 projects around the island, with an approximate Fiscal Year 2021 funding of \$477,965,000.²⁵³ HUD publicly announced in May 2020, the assignment of \$241,205 to Puerto Rico, as part of nearly \$77 million nationwide assignment in a fourth wave of CARES Act funding supporting up to 8,300 additional vouchers through HUD's Section 811 Mainstream Housing Choice Voucher Program. This initiative includes affordable housing to people who are aging and/or disabled.²⁵⁴ The Puerto Rico DOH indicated at its transition hearing that a request for proposal (RFP) is expected to be published for these funds to subsidize construction of new projects intended for older adults and PWDs, which will provide support services such as nursing, home assistance, or transportation.^{255,256}

Stakeholders have found that houses are not constructed with universal designs that adapt to the needs of people who are aging or PWDs.²⁵⁷ Some HUD housing projects have limits as to how many PWDs are able to reside in one location. Independent living housing complexes only allow a small percent of PWDs if younger than 55 years old.

People that need support services find them only available to people living in assisted living or institutions and not available to those living

independently.²⁵⁸ In Puerto Rico, the majority of support services for people with disabilities cease once a person reaches the age of 21. Because of the lack of support services, a PWD is often destined to remain at home with her

parents and/or respite programs.

Assisted living programs could benefit PWDs in Puerto Rico. Program requirements are that you must be over the age of 21, have a professional diagnosis of an intellectual disability

through a psychometric test, and have the basic skills of independent living, low income, and no property or economic means. Under assistive housing, support services are not provided. Stakeholders suggested that the government of Puerto Rico fund assisted living programs. Additionally, what assisted living programs do exist are limited and difficult to access,

especially outside of the metropolitan area. Another important aspect relevant to assisted living is the lack of transportation programs on the island. Many PWDs need these services in order to live independently.

Puerto Rico has 20 residential complexes

that are subsidized by federal funds and are available to senior citizens aged 62 or older as well as the housing units available under Section 8. **NCD recommends the**

[C]onstruction materials used for housing in Puerto Rico . . . are more expensive, which, in turn, lead to higher costs per unit resulting in a limited amount of housing compared to the demand on the island.

In Puerto Rico, the majority of support services for people with disabilities cease once a person reaches the age of 21. Because of the lack of support services, a PWD is often destined to remain at home with her parents and/or respite programs.



U.S. Department of Housing and Urban Development (HUD) require all federally assisted housing units follow universal design principles and ensure that accessible housing units reflect the percentage of people

with disabilities in need of federal housing assistance.

In February 2020, the U.S. Department of Justice settled a disability-based housing discrimination lawsuit with owners and

developers of 11 apartment complexes in Puerto Rico. The lawsuit required the owners and developers to resolve violations of the Fair Housing Act and the ADA.²⁵⁹ The companies are required to retrofit and remove accessibility barriers, which may require things such as replacing sloped sidewalks, installing curb ramps and walkways, installing wheelchair accessible bathrooms and kitchen cabinets, and removing public and common area accessibility barriers.²⁶⁰ **NCD recommends PRHD ensure that all construction projects destined for the island with CDBG-DR funds comply not only with the minimum design requirements of the ADA but also with universal design**

recommendations to ensure accessibility for PWDs.

Stakeholders interviewed emphasized the limited number of programs across the island dedicated to serving the adult population with intellectual disabilities. Additional support services identified by stakeholders as necessary to achieve independent living (besides the accessible housing), were accessible transportation, housekeeping services, PAS, and a respite program, among others. Scarcity, in terms of assistive housing funds, low incomes, and insufficient service support programs and resources limit PWDs ability to be self-sufficient and live independently.

Chapter 8: Transportation

Transportation Disparities

Accessible transportation is a necessity for many PWD's to attain employment, education, access to the community, and healthcare. Puerto Rico's transportation system is fraught with issues. Recurring natural disasters have severely damaged the infrastructure, and the disparity in transportation services for people with disabilities in Puerto Rico is apparent. This disparity exists despite DOT's equal distribution of transportation funds to the states and the territories. DOT's funding formula considers the high poverty rate on the island resulting in reduced tax revenue, beleaguered infrastructure with an economy dependent on imports, and because of the Jones Act, higher prices. Because of these unique circumstances, the transportation funds equally provided to Puerto Rico are not sufficient to provide the most basic transportation needs for people with disabilities on the island. **NCD recommends Congress amend DOT legislative formula for formula grants so that funds are equitably distributed. NCD recommends Congress amend Department of Transportation's legislative formula to allot for an exemption to the cost sharing requirement if a state or territory can prove they are fiscally incapable of fulfilling the cost share requirement.**

Therefore, a state or territory already in financial distress is not penalized and precluded from gaining access to federal funds solely because of its economic status.

NCD recommends that the Puerto Rico Commonwealth prioritize and strategize efforts to match all federal matching funds when fiscally possible so that all federal funds are utilized to improve transportation on the island for PWDs. NCD recommends that Puerto Rico create a unified systemic integration and capacity building among the transportation providers to PWDs on the island and the territories to improve access and coverage for PWDs.

Transportation in Puerto Rico, the United States, and the U.S. Territories

Accessible transportation options in Puerto Rico are extremely limited and leave many PWDs limited options to engage in their community.

The American with Disabilities Act (ADA) of 1990 includes the right to accessible and equal access to transportation. It requires public transit entities to provide complementary paratransit along with its bus or rail fixed route service.²⁶¹

Few transportation options exist when no public transportation is

available, such as in rural areas. Many PWDs in Puerto Rico simply never leave home.

Many PWDs in Puerto Rico simply never leave home.

The U.S. Department of Transportation (DOT) administers formula-based programs and grants available to the states and territories. The Federal Transit Administration (FTA) is the agency that has oversight and enforcement capabilities to ensure that transportation is provided to PWDs in public transportation systems. Federal benefits and support include transportation formula grants for the transportation of disadvantaged populations such as PWDs and seniors with disabilities. They are provided through the states to organizations who provide transportation services to PWDs. Organizations providing these services face constraints as a result of growing need and the limited, often strained, budgets. This is the case in the states and U.S. territories. While there are services available, the demand exceeds the capacity to serve all those that need transportation.²⁶²

Puerto Rico Department of Transportation and Public Works (DTOP) created the Puerto Rico Integrated Transportation Authority in 2014

(ATI for its abbreviation in Spanish), to manage and integrate the different transit modes on the Island.”²⁶³ Currently it serves the metropolitan area of San Juan’s heavy rail and bus service with 102 buses with an average of 11 years of service and 54 vehicles with an average 5 years in service. Along with the Metropolitan Bus Authority (AMA), the Urban Train (TU), TU Connectors and Maritime Transport (ATM), the collective transportation concentration of these services is available in eight municipalities of the

metropolitan urban area of San Juan (Bayamon, Carolina, Cataño, Guaynabo, Loíza, San Juan, Trujillo Alto, and

Toa Baja) and the two smaller islands of Vieques and Culebra. AMA manages the fixed route bus system with 17 routes and with a fleet of 108 buses. Puerto Rico’s paratransit system, “Llame y Viaje” (Call and Travel—public service) and “Transcita” (Private Service) are available for PWDs. However, most of these services are only available during the week.

Not unlike the rural areas in the states, accessible public transportation is extremely limited outside of the metropolitan area. Unfortunately, the fiscal restraints experienced by most municipalities on the island restrict its ability to provide desperately needed accessible transportation. Currently, municipalities who are not part of the Metropolitan area, must develop their own transportation options and request funding from Puerto Rico Highways and Transportation Authority (PRHTA) to establish their own paratransit system. Transportation agencies have tried to unify the public transportation options, yet there is great variation

in available services. Municipalities were already strained fiscally before the wave of natural disasters over the last several years. As of April 2021, Puerto Rico was still waiting on the disbursement of disaster relief funds to assist in recovery efforts including transportation. Most of the municipalities have limited transportation alternatives. If accessible transportation is provided, it usually is only provided for medical appointments.

The fiscal crisis, outbound migration, and the severity of natural disasters has reduced ridership and investment in public transportation. This has resulted in increased automobile dependency and vehicular traffic in the Metropolitan areas.²⁶⁴

AMA has been cited for infringements numerous times by the Protection and Advocacy System regarding bus driver attitudes, buses not stopping for passengers, non-working ramps or seat belts for wheelchairs, lack of space for boarding, and accessibility of sidewalks. Training has been conducted to assist bus drivers to develop an understanding of the law and sensitivity in providing the appropriate service to passengers with a disability. All buses are ADA Compliant and must comply with Buy America. An agency representative stated that AMA buses are mainly diesel-dependent buses and break down frequently. They also mentioned that FTA requires that buses operate for 14 years before they can be replaced. As a result, the transit agency must invest in costly and recurrent repairs fixing deteriorated buses. FTA considers Puerto Rico's terrain and geography, the salty air, and the density of the Sahara dust that reaches shores, which all cause additional wear and tear and impact the durability and lifespan of the buses. A 10-year life span for buses is most appropriate

and for paratransit five years is ideal. This same stakeholder asserted that it is a critical factor that influences having an adequate supply of buses for the demand of services.

NCD recommends that DOT reduce the life span for buses to 10 years and for paratransit vehicles to five years.

The TU is a limited route train in the metropolitan area with 16 stops and provides transportation to only three municipalities, Bayamon, Guaynabo, and San Juan. It is accessible for PWD by escalators, elevators, and visual and auditory messaging and meets the minimum ADA requirements. Most of the difficulties in accessibility occur when elevators and escalators break down, and there is a delay in repairs due to fiscal constraints brought upon by the island's fiscal crisis.

Maritime Transport uses a ferry system to provide transportation to and from the islands of Vieques and Culebra. This system does not meet the transportation needs of PWDs who travel to and from the Islands of Vieques and Culebra for health and other specialized services. Complaints of erratic schedules, faulty machinery, and inconsistent availability are consistent. This limits PWD mobility because the only other options (small commuter planes) are costly and do not work for all PWD's mobility needs. Accessible transportation on the smaller islands and to and from other islands is extremely limited and for many unattainable.

The Puerto Rico Highway and Transportation Authority (PRHTA) is the entity responsible for receiving and administering FTA funds to the Island of Urbanized and non-urbanized areas. Within this agency, the Federal Coordination Office (FCO) administers the funds and

collaborates with FTA, the Metropolitan Planning Organization, local governments, and transit providers to develop and maintain a network of transportation services available to the public on the island. DTPP the policy making umbrella agency for transportation on the island serves as the operative arm for the Puerto Rico Metropolitan Planning Organization for all urbanized areas and has created policy/board committees to assure cooperative decision making.

The Puerto Rico Strategic Transportation Improvement Plan (STIP)²⁶⁵ reflects the different regions of the island and their categories for program benefits and funding from FTA and managed by FCO. Funds apportioned to Puerto Rico are calculated based on legislative formulas factoring population and population density statistics. It is noted that while transportation programs in Puerto Rico are funded utilizing the same formula for the states and other territories, the depth of the need, socioeconomic conditions, and natural disasters are far more dire and have increased the financial needs for Puerto Rico to provide the unmet benefits and services to PWDs. **NCD recommends Congress amend DOT legislative formulas so that funds are equitably distributed.** Equitable distribution as opposed to equal distribution will lessen the disparity of access to services and programs caused by the high levels of poverty and

Equitable distribution as opposed to equal distribution will lessen the disparity of access to services and programs caused by the high levels of poverty and economic distress experienced by PWDs in Puerto Rico and other territories.

economic distress experienced by PWDs in Puerto Rico and other territories.

Section 5307 - Urbanized Area Formula Grants	2020 Apportionment: ²⁶⁶
Provides grants to support public transportation in urbanized areas through transit capital and operating assistance.	SJUA: \$26,901,585 AUA: \$2,641,752 UZA: \$17,033,736

In the STIP, examples of Section 5307 Urbanized Area Formula Grant projects awarded to the SJUA include:

- Operation and administrative equipment office of the paratransit / territorial planning programs in the municipality (Bayamon, Vega Alta, Vega Baja);
- Replacement of paratransit vehicles (4-Bayamon, 3-Guaynabo 4-Toa Baja);
- Contracting on the non-fixed ADA paratransit services (Carolina);
- Construction or rehabilitation of sidewalks and access around the bus shelter (Carolina, Toa Baja);
- Design and construction of sidewalks along shelters and stops, Elderly Center, City Hall, and Dos Bocas (Corozal);
- Operational assistance for ADA paratransit (Corozal, Guaynabo, Gurabo);

- Provision for paratransit services (Gurabo, Humacao, Juncos, Manati, San Lorenzo, Toa Baja); and
- Preventive maintenance for paratransit activities (Vega Alta).

Section 5310 - Enhanced Mobility for Seniors and PWD	Apportionment 2020 ²⁶⁷
Provides formula funding to increase seniors and PWD's mobility "when public transportation is insufficient, inappropriate, or unavailable" and projects that improve access to fixed-route service and decrease reliance by PWDs on paratransit, or alternative to public transportation."	SJUA: \$2,558,984 AJUA: \$396,353 UZA: \$2,021,589 NUA: \$233,391

For PWDs, Section 5310 is critical and may be used to purchase vehicles, support existing services, increase service hours, expand options, spread awareness about eligibility, and/or how to access transportation services, and create mobility management or travel training, among other uses.²⁶⁸

A stakeholder interviewed mentioned that transportation services are indispensable for PWDs. However, in their health insurance policy, where transportation is included, major restrictions apply. If provided, transportation is limited to 13 round trips per year, which are usually used for medical appointments. For other trips, to the supermarket for example, the caregiver or trip companion is required to pay a \$20 fee per trip. A \$20 fee for someone who receives AABD benefits and receives only \$75 a month is an exorbitant expense.

When consulting with health plan providers, they confirmed that the main requirement to receive the transportation service is being a beneficiary of Medicare and Vital. Even then, transportation is mostly provided only for medical appointments and depends on insurance coverage.

A confidential interview with a family member of a person with a disability compared experiences in the states versus the island and noted that in the United States:

Residents of assisted living programs are picked up by city transit vehicles to take them to their jobs and returned to their home in the afternoon. In other words, there is an organized system, where adequate transportation needs for PWDs are prioritized. We have not reached that point in Puerto Rico. We are very far from creating awareness about the fact that people, even with intellectual disabilities, cannot drive a vehicle, but could perhaps have a job and a better quality of life, if they had adequate transit programs in all the towns.²⁶⁹

Several transportation grants require Puerto Rico to match funds for eligibility. For instance, match requirements for Section 5310 vary by project. For Capital projects (funds to purchase vehicles) a 20 percent match is required. Projects to fund program operations must provide a 50 percent match. The match may be derived from other federal funds.²⁷⁰ Funding apportioned to states is allocated by population. The formula is 60 percent for urbanized populations with over 200,000,

20 percent for population over 50,000 but less than 200,000, and 20 percent in rural areas with a population under 50,000.²⁷¹ **NCD recommends Congress amend Department of Transportation’s legislative formulas to allot for an exemption to the cost sharing requirement if a state or territory can prove they are fiscally incapable of fulfilling the cost share requirement.**

Funding reduction observed in Fiscal Year 21 and Fiscal Year 22 are due to decreases in usage during the pandemic. Additional funding from CARES Act and CRRSA are now available to offset the difference. Examples of projects being funded in Puerto Rico under Section 5310 include:

- Municipality of Barranquitas acquired one paratransit van, 10 passenger vans, one minibus, and 16 passenger vehicles;
- Municipality of Cayey acquired three paratransit vehicles with a 10-passenger capacity;
- Altergarten I, Las Teresas, Combined Building & Housing Consultants, Inc. (San Juan), acquired one minibus for 16 passengers with a handicap access (lift);
- Hogar Juan Ruiz Velez, Asc. Jubilados de la AEE, Inc., Combined Building and Housing Consultant, acquired a passenger bus with handicap access (lift);
- Corporación Servicios de Salud Primaria y Desarrollo Socioeconómico El Otoao-Cossao (Utuado) acquired one paratransit with a 10-passenger capacity and two vans; and
- Municipality of Ponce acquired six buses (four paratransit vans and two minibuses) and constructed or rehabilitated 20 sidewalks and/or ramps, all ADA compliant.

Section 5311 - Non-Urbanized Area Formula Grants and Rural Transportation Assistance Programs	2020 Apportionment
These grants provide operating assistance and preventive maintenance for transportation in the selected municipalities.	NUA: \$2,265,122

Subrecipients receiving FTA 5311 funds and operating a fixed route service are required to provide separate ADA Complementary Paratransit service for PWDs unable to use the fixed route system. Prior to the start of a fixed route service, subrecipients submit to PRHTA their complementary paratransit plan with compliance written documentation.

The public transportation system or PUBLICOS throughout the island is privately owned and operated and is regulated by the Public Safety Commission. Fares are regulated by route and special insurance requirements are imposed. This mode of transport has had a significant decrease in demand and ridership from 2010–2016²⁷² with an over 50 percent drop in trips as measured by the National Transportation Database.²⁷³ From Fiscal Year 2012 through Fiscal Year 2016 the PUBLICO system has lost 23 percent of its routes and 31 percent of its available vehicles. Unfortunately, most have disappeared, and the majority are not accessible.

When looking at transportation options in the states and specifically those states with the highest Puerto Rican population, we found a variety of options exist for mobility and transport (including trains, buses, paratransit, rural, and maritime transportation) options. Interestingly,

the same issues persist and require attention: inadequate enforcement of ADA laws, physical obstacles to all forms of public transit, and lack of transportation options in rural areas across the island (although these are currently expanding).²⁷⁴

All of these federal benefit programs identified are available in the states under the Department of Transportation (DOT) who provides formula grant funding to each state and additional recipient and subrecipients that can include non-profit organizations designed to facilitate transportation options for PWD. Fiscal Year 2020 funding for U.S. urbanized areas with a population over 200,000 is \$172,893,544, urbanized areas with a population between 50,000 and 199,000 and non-urbanized areas total \$57,631,182 each.

The Moving America Plan-21 (MAP-21) of 2012 created a streamlined and performance based surface transportation program that imposed requirements to FTA funded human services programs that support transportation services for PWDs, older adults and persons with low incomes.²⁷⁵ When looking at transportation options in the territories, each is eligible for formula based grants and funding options that include the Territorial Highway Program, which was created for constructing and improving the highways and inter-island connectors (including ferry boats, terminal facilities and approaches) in the USVI, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.²⁷⁶ In 2014, under MAP-21²⁷⁷ funding for Territorial Highway Programs was \$40 million and was allocated to the four territories by an administrative formula set at 40 percent each for

Guam and the USVI and 10 percent for American Samoa and the Northern Marina Islands. In terms of public transportation under MAP-21, there are four formula grants including, as in Puerto Rico, the urbanized area formula program of which the USVI was apportioned \$183,266 for the Transit for Elderly and Disabled Individuals Program, the Bus and Bus Facilities Program, and the Non-Urbanized Area Formula Grant. Non-urbanized area grants for populations under 50,000 in 2020 included \$9,552 for the Northern Marina Islands, \$45,768 for Guam, and \$12,089 for American Samoa.

The Cornell University 2018 Disability Report for Puerto Rico reflects that 17.3 percent of the population with disabilities indicated that they had a disability that made it difficult for them to move, walk, or climb stairs.²⁷⁸ As we enter 2021, the transportation needs for the disability community continue to be acute. The lag in supply versus demand is so great that current funding streams, albeit equally distributed, still do not meet the needs and demand for services for PWDs in Puerto Rico, which is compounded by the significant poverty, delays in funding accessibility, and the island's fiscal crisis.

NCD recommends that the Puerto Rico Commonwealth prioritize and strategize efforts to match all federal matching funds when fiscally possible so that all federal funds are utilized to improve transportation on the island for PWDs. NCD recommends that Puerto Rico create a unified system and build capacity among the transportation providers to PWDs on the island and the territories to improve access and coverage for PWDs.

Chapter 9: Emergency Preparedness

Impact of Natural Disasters

Natural disasters and emergencies occur across the globe, and the impact is felt by all. However, PWDs have an increased risk to extreme weather events and coastal flooding. PWDs face multiple obstacles with messaging and sheltering during natural disasters such as: ineffective notification and lack of communication services for the deaf, hard of hearing, and the blind; poor or nonexistent transportation for evacuations; and/or inaccessible shelters. Expedient access to federal funds to mitigate the impact of natural disasters as a community is imperative immediately following a disaster. The rebuild should ensure that communities are rebuilt to be inclusive and accessible to all.

The World Health Organization (WHO) reported that “globally, the number of weather-related natural disasters has more than tripled since the 1960s.”²⁷⁹ In 2017, the United States had a devastating hurricane season, making it one of the costliest in our history with simultaneous wildfires in the west burning thousands of acres, followed by mudslides in Southern California.

PWDs are especially affected as a consequence of these natural disasters resulting in higher rates of injury and even death. PWDs face multiple barriers during natural disasters such as: ineffective notification and communication alternatives for the deaf, the hard of hearing, and the blind, poor transportation alternatives for the evacuation of PWDs with

physical limitations; inaccessible shelters; inadequate food alternatives; loss of support networks; lack of preparedness skills; and nonexistent inclusive emergency plans to ensure accommodations are met.

PWDs are identified as an increased risk to extreme weather events and coastal flooding because of their “specific access and functional needs.”²⁸⁰ Reasons for the vulnerability are dependence on caregivers and others for assistance, potential reliance on medical equipment that could be damaged or inoperable during power outages, difficulty following or accessing evacuation orders, or inability to understand warnings or communicate needs.

In NCD’s 2019 report, *Preserving our Freedom: Preventing Institutionalization of People with*

Disabilities Before, During, and After Disasters,²⁸¹ NCD found multiple instances in which PWDs became institutionalized due to lack of planning by state and local tribes and territories (SLTT's). Systemic deficiencies in inclusive emergency planning cause PWDs to be institutionalized due to lack of power, lack of durable medical equipment, lack of medications, and oxygen.²⁸²

On September 20, 2017, thousands of PWDs in Puerto Rico endured Hurricane Maria, a Category 4 hurricane with sustained winds of up to 155 miles per hour. Maria wiped out Puerto Rico's infrastructure:

there was no electricity, water, telephones, or communication systems. A traumatic experience for all Puerto Ricans on the island, but especially traumatic to PWDs. Motivated by their desire to move into action and assist PWDs, a work group comprised of six public and private disability service organizations united to provide response efforts and called themselves the Puerto Rico Disability Community Relief Network (PRDCRN). This work group was made up of the independent living center; the Movement for Achieving Independent Living (MAVI for its Spanish acronym); the University of Puerto Rico Center for Educational Excellence (PR UCEDD); the Puerto Rico Protection and Advocacy Service, Ombudsman for PWD (DPI for its Spanish acronym); the State Council on Developmental Disabilities (CEDD for its Spanish acronym); the Puerto Rico Assistive Technology Program (PRATP

Systemic deficiencies in inclusive emergency planning cause PWDs to be institutionalized due to lack of power, lack of durable medical equipment, lack of medications, and oxygen.

It took Puerto Rico six months after Maria's landfall to enter into its recovery phase.

for its Spanish acronym); and B/Adaptable. In the months following Hurricane María, the PRDCRN provided many testimonials on federal, state, and international forums describing the negative impacts sustained by the disability community in Puerto Rico in the aftermath of the hurricane.

If Puerto Ricans had been adequately shielded against the social and environmental risks of

the impact, lives could have been saved.²⁸³ It took Puerto Rico six months after Maria's landfall to enter into its recovery phase. The Puerto Rican government failed to take the lead in restoring power and

telecommunication systems to the island. The magnitude of the hurricane and Puerto Rico's financial crisis, plus a decimated infrastructure, severely diminished Puerto Rico's response capacity, and the slow federal response and assistance that did arrive was not adequate to address the issues. Former FEMA officials

and disaster response experts have affirmed that the slow response is evidence that FEMA underestimated the force of the hurricane and did

not assertively position their assets in preparation of the storm.

Table 9.1 summarizes the disparities in aid received by Puerto Rico when compared to Hurricane Harvey that struck Texas in 2017.

Stakeholders interviewed stated that FEMA assistance to the island was delayed and that accessing FEMA relief funds was more difficult in Puerto Rico than in the states. Years after the

Table 9.1: Comparative Data on Disaster Response for Hurricane Harvey and Hurricane Maria²⁸⁴

Comparison Item	Harvey	Maria
Official in charge	Specialist in disaster response, stayed in Houston after it was stabilized	Local Director, Executive Office & Senior Policy Advisor, no disaster response experience. Specialist in disaster response deployed to Puerto Rico 3 weeks after hurricane
U.S. Army and Marine Corps	Deployed immediately	Not used
U.S. Northern Command	Deployed 73 helicopters with aid six days after disaster	Deployed 70 helicopters with aid 3 weeks after disaster
FEMA Individual Assistance	Approved \$141.8 million	Approved \$6.2 million
FEMA provisions supplies during the first nine days	Provided 5.1 million meals, 4.5 million liters of water, and over 20,000 tarps	Provided 1.6 million meals, 2.8 million liters of water and roughly 5,000 tarps
Federal Government Personnel	30,000 personnel	10,000 personnel
Permanent Disaster Work approval	10 days	43 days
Federal applications approved 78 days after hurricanes	39% of applications	28% of applications
Permanent repair project funding	In process with established funding source	Experimental funding. Funding was contingent on an experimental funding formula in which Puerto Rico is responsible for overrun cost.
USS Abraham Lincoln	Positioned itself in FL two days prior to Hurricane Irma	Was never requested
USNS Comfort, a hospital ship		Did not embark until two weeks after the hurricane
First responders assigned		FEMA had filled only 1,258 of 2,250 beds allotted for its first responders at the convention center and aboard two training vessels from the U.S. Maritime Service.
Blue roof tarps	Blue roofs were not requested in TX but given temporary housing relief. In FL, 25 days after Irma 1,600 blue roofs installed out of 15,000 or 10.7%	25 days after the storm; only 260 of 60,000 requested had been installed or 0.4%.

disaster people with disabilities are still living with blue tarps and leaks in their homes.

FEMA provided considerably less aid to Puerto Rico than to other states affected by hurricanes. FEMA rejected over half of FEMA applications for assistance made by Puerto Ricans.²⁸⁵ Thousands of Puerto Ricans were forced to leave the island and moved to the southeastern United States in search of better living conditions. However, Puerto Ricans with disabilities on Medicaid were confronted with no insurance coverage when they relocated to the states. Medicaid is a state-run insurance program and is not portable. The lack of insurance placed PWDs at a high risk of worsening health conditions, with the greater risk of institutionalization.²⁸⁶ **NCD recommends**

that Congress require CMS to establish a process for Medicaid portability among states and territories during disasters to ensure uninterrupted health maintenance and medical care in the least restrictive environment for Medicaid recipients.

Programs and policies were created to assist families who wished to emigrate to the states. The programs and policies were flawed, which resulted in warnings that temporary housing would be terminated for those who relocated.²⁸⁷ For the almost 160,000 Puerto Ricans that moved to the states since Maria, these situations have demonstrated there are limits to citizenship for people from underserved populations in the wake of disaster. "Citizenship on paper does not automatically confer rights nor a sense of belonging."²⁸⁸

Congress approved funding for Puerto Rico's recovery through CDBG-DR programs and

CDBG-MIT programs. There were four block grants approved: two for unmet needs in disaster recovery (one for \$1.5 billion and the other for \$8.2 billion); one for mitigation programs (CDBG-MIT- \$8.3 billion); and one for the improvement of Puerto Rico's electrical grid (\$1.9 billion).²⁸⁹ HUD's OIG office concluded that Puerto Rico signed its grant agreement with HUD for the second block of funds for unmet needs on February 21, 2020: 178 days after Texas signed, 150 days after Florida signed, and even several days after the USVI signed for their funding.²⁹⁰ The third block of funds, the \$8.3 billion destined for mitigation work, was published by HUD in the Federal Register Notice 145 days past the established statutory deadline (two years after appropriation), when other notices for other grantees (including

the USVI) were published approximately 139 days earlier. The report cites many reasons by HUD and OMB for the delayed release

of funds, including additional requirements imposed exclusively to Puerto Rico due to concerns regarding alleged corruption and fiscal mismanagement that led to the imposition of a Federal Fiscal Monitor, an extra layer of disbursement verification by the PROMESA Board, as well as obligating Puerto Rico to fix its property tax system in order to receive mitigation funds.

The estimated aid needed for Puerto Rico after the 2017 hurricanes was \$91 billion.²⁹¹ As of May 2021, The Housing Department, the Federal Emergency Management Agency, and other agencies have only released a fraction of these funds leaving the island's infrastructure and homes unstable.²⁹² Puerto Rico established

FEMA rejected over half of FEMA applications for assistance made by Puerto Ricans.

an oversight office to review federal recovery funds and ensure better management and accountability of the funds. In the interim, FEMA instituted a process, where they would review each reimbursement request before providing public assistance funds, in an effort to ensure accountability and decrease risk.²⁹³

Recently, the Biden administration announced the lifting of these excessive restrictions,²⁹⁴ but the fact is that millions of American citizens residing on the island, in addition to suffering the onslaught of the worst disaster in their history, have gone without the lifesaving funds needed to hasten recovery for over three years. The funding delay was also felt by survivors in the form of national flood insurance payouts and SBA loans. Nine days after the hurricane, only \$6.2 million had been approved by FEMA for hurricane victims and permanent disaster work.

FEMA's Public Assistance Program provides response and recovery funding to SLTTs to assist during disasters or emergencies.²⁹⁵ Puerto Rico's Department of Housing, the Puerto Rico Electric Power Authority, the Puerto Rico Aqueduct and Sewer Authority, and its 78 municipalities are eligible to apply for public assistance. President Trump's Disaster Declaration was amended to require additional conditions that required Puerto Rico to establish a third-party approved oversight authority.²⁹⁶ This oversight authority will receive all Public Assistance and Hazard Mitigation Funding and guarantee adequate project management and a centralized oversight over FEMA funds. In October 2017, a Puerto Rico government office, COR3 was established to guide and oversee recovery efforts, including FEMA Public Assistance Program funds.²⁹⁷

Damage to the island by the January 2020 earthquakes required additional emergency aid

to facilitate the region's recovery. Therefore, both the federal and state government had the immense challenge of having to oversee and administer two disaster recovery programs simultaneously.²⁹⁸

After the earthquake, HUD announced the approval of a disaster package, but it also issued additional guidelines and restrictions in the use of these funds because of their concern over the mismanagement of funds by the Puerto Rican government. One restriction was the appointment of a federal monitor for the CDBG DR funds received on the island. In addition, the approved funded projects had to be approved by the Federal Oversight and Management Board (FOMB-PROMESA). Governor Vázquez issued an Executive Order on February 3, 2020, creating an advisory council for the oversight of CDBG disaster recovery funds authorized for Puerto Rico. The council's task is to work with the Puerto Rico Housing Department to create an integrated work plan for the efficient, transparent, and correct use of these funds. The council is an important step in Puerto Rico's ongoing efforts to combat corruption in government contracting and to restore the Government of Puerto Rico's credibility with the Federal Government.²⁹⁹

Disaster scholars affirm that disasters do not create the inequities but reaffirm and deepen structural problems that already exist.³⁰⁰ Since September 2017, "Puerto Rico has experienced a perfect storm caused by the natural disaster of Hurricane María and a human made financial crisis."³⁰¹

Puerto Rican diaspora was a vital and appropriate response to the hurricane. There are many more Puerto Ricans living in the states than on the island. Thanks to their efforts, the

humanitarian crisis experienced in Puerto Rico was visible and public and promoted a sustained public discussion. This same diaspora continues to be a watchdog and an advocate for Puerto Rico's recovery.

Emergency Response for Hurricanes Harvey and Irma

Response Efforts Hurricane Harvey, Houston, TX, August 2017

In contrast to the Puerto Rican relief efforts discussed above, within six days of Hurricane Harvey, U.S. Northern Command had deployed

73 helicopters over Houston, critical for saving victims and delivering emergency supplies. FEMA had approved \$141.8 million in individual assistance to Harvey victims just nine days after the hurricane. FEMA provided 5.1 million meals, 4.5 million liters of water, and over 20,000 tarps to Houston during the first nine

days after Hurricane Harvey. Nine days after the hurricane, the Federal Government deployed 30,000 personnel in the Houston region. Permanent disaster work for Texas was approved after just 10 days. Within 78 days after Hurricane Harvey, 39 percent of federal applications for relief were approved. A \$15.25 billion disaster relief package was approved resulting in \$7.4 billion for FEMA; an additional \$450 million was approved for the Small Business Administration (SBA) disaster loan program; and an additional \$7.4 billion was allocated to HUD for housing

assistance. Texans also had access to \$5.5 billion in tax relief to alleviate the impact created by Hurricane Harvey. President Trump also signed a bill authorizing a tax deduction for property damage costs and allowed penalty-free access to retirement savings. A second disaster aid package (\$36.5 billion) was approved for relief for Texans and those impacted by wildfires in the western United States. The third disaster aid package of \$89.3 billion was allocated for areas hit by natural disasters, including Harvey; and the U.S. Army Corps of Engineers provided close to \$5 billion for disaster recovery projects in Texas

and \$16 million for Texans on projects that would protect against future natural disasters.

Florida Recovery from Hurricane Irma; September 2017

Hurricane Irma hit Southern Florida as a category three hurricane in September 2017. Immediately, Florida communities began

rebuilding with \$5.8 billion in federal grants, loans, and flood insurance payments.³⁰² The response received included:

\$1.02 billion in grants from FEMA for individuals and households; \$1.4 billion in low-interest loans from SBA; \$979 million in payments to policyholders by the National Flood Insurance Program; \$20 million for Palm Beach County to combat erosion and help restore Juno Beach restoration; \$17.5 million to restoration of the City of Miami's Dinner Key Marina; a grant of \$25 million to replace the seawalls of City of

Post disaster recovery and mitigation funds for Puerto Rico were delayed when compared to those same funds in response to Hurricane Harvey in Texas and Hurricane Irma in Florida. This delay resulted in unhealthy living conditions for people with disabilities and all Puerto Rican residents.

Punta Gorda; \$208 million awarded by FEMA's Hazard Mitigation Grant Program to reduce damage from future storms; \$10.3 million for Disaster Unemployment Assistance; \$21.7 million for Disaster Case Management; \$421,569 for the Crisis Counseling Immediate Services Program, \$1 million for the Crisis; FEMA's Public Assistance Program was awarded \$2.06 billion in

grants to the State of Florida to reimburse local governments and eligible nonprofit organizations.

Post disaster recovery and mitigation funds for Puerto Rico were delayed when compared to those same funds in response to Hurricane Harvey in Texas and Hurricane Irma in Florida. This delay resulted in unhealthy living conditions for people with disabilities and all Puerto Rican residents.

Chapter 10: Conclusion and Recommendations

Conclusion

Puerto Rican residents and residents of U.S. territories who have disabilities experience disparate treatment in federal programs. Coverage and funding disparities in Medicare, Medicaid, SSI, and SNAP/NAP exist, and significant disparities were also found in the price of specialized DME. NCD also found a lack of meaningful systemic data on PWDs in Puerto Rico and the territories and untoward consequences because of the delay in distribution of funds because of the additional stipulations placed on Puerto Rico to access much-needed emergency relief funds.

Puerto Rico's poverty rate is twice that of the highest state's poverty rate in the United States. Even though Puerto Rican residents are U.S. citizens, they are not afforded the same access to benefits and services of the citizens residing in the United States. Thirty-six percent of U.S. residents who are very poor have escaped poverty as a result of safety nets.³⁰³ This statistic alone demonstrates the critical and meaningful impact it has on improving living standards. The safety net programs discussed in this report are SSI, Medicaid, and SNAP. A safety net is not only a monetary benefit, though financial resources are at the core. A safety net is an interconnected web of services and benefits that together lift

those living in poverty to a better quality of life. The U.S. social safety net is composed of a number of different programs that provide various kinds of help designed to protect those with low socioeconomic status from poverty and hardship. When at high levels of poverty, the goal becomes ensuring a minimum standard of living.³⁰⁴ In Puerto Rico, with its high level of poverty and percentage of residents with disabilities, even a minimum standard of living seems elusive. "Nowhere is the need greater than in Puerto Rico, which unlike other parts of the country, entered the pandemic following well over a decade of virtually uninterrupted economic decline coupled with devastating natural disasters."³⁰⁵ **NCD recommends the availability of these key safety net programs described within this report be made available to citizens of Puerto Rico and U.S. territories. The integration should occur simultaneously with each other so that vulnerable populations do not fall through the gaps.**

This report found funding for federal programs and services such as housing, employment, education, and transportation were allocated equally among states and U.S. territories. It also found, equal distribution of funding did not equate to equitable access to programs and services for residents of Puerto Rico with disabilities.

The recommendations below strive to provide the appropriate remedies that will afford U.S. citizens with disabilities living in U.S. territories the same federal programs and benefits as their

U.S. counterparts and remove the disparate treatment of federal programs simply based on a PWDs zip code.

Recommendations by Chapter

Chapter 2: Jones Act/Inventory Taxes/Other Taxes

1. NCD recommends Congress repeal the provision within the Jones Act that restricts coastwise trade on U.S. flagged vessels, for durable medical equipment covered under Medicare Part B (such as manual wheelchairs, power wheelchairs and components and replacement parts, scooters and component and replacement parts, patient lift and transfer equipment, patient ventilators, portable oxygen, foam, gel, innerspring and air mattresses, continuous positive airway pressure (CPAP) devices, shower and commode chairs, and suction pumps).
2. NCD recommends Puerto Rico's legislative assembly waive the inventory tax for the purchase of DME.

Chapter 3: Health: Medicaid and Medicare

3. NCD recommends Congress amend the Social Security Act to replace the Medicaid block grant program in Puerto Rico and other U.S. territories with an uncapped federal matching system, equivalent to the Medicaid program provided to U.S. residents.
4. NCD recommends Congress amend the Social Security Act to eliminate the late penalty enrollment provision placed on Puerto Rican and U.S. territory Medicare recipients.
5. In the alternative, NCD recommends Congress pass HR 4666 (2019). Passage of the bill would eliminate the enrollment penalty and provide a low-income subsidy program to cover partial or total costs for out-of-pocket medications for Puerto Rican and U.S. territory Medicare recipients.
6. NCD recommends Congress amend the Social Security Act to allocate Medicare benefits for residents of Puerto Rico and other U.S. territories equal to those benefits provided to residents living in the United States.
7. NCD recommends Congress amend the Deficit Protection Act of 2005, Public Law 109-171 (2006) to extend the Money Follows the Person Demonstration Grant Funding to Medicaid recipients residing in U.S. territories.

Chapter 4: Income Assistance Benefits and Programs

Supplemental Security Income | Social Security Disability Insurance | Supplemental Nutrition Assistance Program | Nutrition Assistance Program

8. NCD recommends Congress pass HR 537, the Supplemental Security Income Equality Act (117th Congress), which would provide SSI benefits to residents of Puerto Rico and U.S. territories.
9. Alternatively, NCD recommends Congress amend Title XVI of the Social Security Act to extend SSI benefits to residents of Puerto Rico and U.S. territories.
10. NCD recommends Congress amend the Food Stamp Act to include Puerto Rico, the Northern Mariana Islands, and American Samoa in the SNAP program, as has been done for Guam and the USVI.
11. NCD recommends Congress amend the Food Stamp Act to provide expedited funding for food and nutrition benefits before, during, and after natural disasters for residents of Puerto Rico and U.S. territories, as is available in the states.
12. NCD recommends all federal and state agencies, as well as public and private universities, include data on Puerto Ricans with disabilities living on the island and other territories in data collection to improve accountability so as to ensure that appropriate resources are provided to ensure equity to programs that allow PWDs the opportunity to achieve economic independence (for example, data collection initiatives collected by the Census Bureau, National Health Interview Survey, and State of the States).

Chapter 5: Education

13. NCD recommends Congress amend IDEA's funding formula to mitigate the high incidence of poverty and the islands increased cost to provide services to students with disabilities.
14. NCD recommends Department of Education amend 34 CFR 361.60, the cost sharing requirement for state vocational rehabilitation services grants, to allot for an exemption to the cost sharing requirement if a state or territory can prove they are fiscally incapable of providing the cost share portion.

Chapter 6: Employment

15. NCD recommends Department of Education amend 34 CFR 361.60, the cost sharing requirement for state vocational rehabilitation services grants, to allot for an exemption to the cost sharing requirement if a state or territory can prove they are fiscally incapable of providing the cost share portion.

(continued)

Recommendations by Chapter: *continued*

16. NCD recommends the Commonwealth of Puerto Rico implement tax incentives for employers who hire persons with significant disabilities, similar to established state programs.

Chapter 7: Housing

17. NCD recommends the U.S. Department of Housing and Urban Development (HUD) should require that all federally assisted housing units follow universal design principles and ensure that accessible housing units reflect the percentage of people with disabilities in need of federal housing assistance.
18. NCD recommends PRHD ensures that all construction projects destined for the island with CDBG-DR funds comply not only with the minimum design requirements of the ADA but also with universal design recommendations to ensure accessibility for PWDs.

Chapter 8: Transportation

19. NCD recommends Congress amend DOT legislative formula for formula grants so that funds are equitably distributed.
20. NCD recommends Congress amend Department of Transportation's legislative formula to allot for an exemption to the cost sharing requirement if a state or territory can prove they are fiscally incapable of fulfilling the cost share requirement.
21. NCD recommends that the Puerto Rico Commonwealth prioritize and strategize efforts to match all federal matching funds, when fiscally possible, so that all federal funds are utilized to improve transportation on the island for PWDs.
22. NCD recommends that Puerto Rico create a unified systemic integration and capacity building among the transportation providers to PWDs on the island and the territories to improve access and coverage for PWDs.
23. NCD recommends that DOT reduces the life span for buses to ten years and for paratransit vehicles five years.

Chapter 9: Emergency Preparedness

24. NCD recommends that Congress require CMS to establish a process for Medicaid portability among states and territories during disasters to ensure uninterrupted health maintenance and medical care in the least restrictive environment for Medicaid recipients.

Chapter 10: Conclusion and Recommendations

25. NCD recommends the availability of these key safety net programs described within this report be made available to citizens of Puerto Rico and U.S. territories. The integration should occur simultaneously with each other so that vulnerable populations do not fall through the gaps.

Appendix A: Town Hall Meeting

National Council on Disabilities

Town Hall Meeting in Puerto Rico

A Town Hall Meeting was held in Puerto Rico on May 23, 2019, to discuss the disparities in treatment, funding, and services available for PWD residing on the island in contrast to U.S. counterparts and to share information regarding the Achieving a Better Life Experience Act (ABLE) among the participants. This meeting was held by the National Council on Disability (NCD) in collaboration with the Puerto Rico Disability Community Relief Network, composed by the PR Independent Living Movement Center (MAVI), the PR University Center for Excellence in Developmental Disabilities (PR-UCEDD), the PR Assistive Technology Program (PRATP), the PR Protection and Advocacy System, and the State Council for Developmental Disabilities (CEDD). The following summarizes some of the issues discussed and comments received by PWDs during this meeting.

Topics Discussed

Political Status of the Island

Conversations included how the current political status of the island and its impact on PWDs in terms of access to federal programs, such as ineligibility for SSI, caps on Medicaid funds, and other federal programs and the effects of the Jones Act on the cost of DME for PWDs on the Island when compared with the United States. Some of the assertions expressed during the town hall were:

1. The political status on the island as one of the main reasons for disparity in federal funding.
2. Economic challenges and lack of funds for PWDs on the island is of great concern. Census data indicates an 81.2 percent unemployment rate for PWDs on the island. According to the participants, there is a great disparity in funding received from SSA. Puerto Rico residents are excluded from SSI, and a fixed block grant with much lower funds is provided to Puerto Ricans under the AABD.
3. The cost for purchasing DME is more expensive on the island due to the state inventory taxes and import cost (Jones Act regulations).
4. Lack of personal assistants for PWDs.

Emergency Preparedness for PWD

Questions were raised regarding the accessibility of shelters, the availability of registries to identify the location of PWD, the effects of inventory tax laws on emergency preparedness, the coordination challenges between federal and Puerto Rican agencies responsible for emergency planning, and the implementation of those plans. Some of the concerns presented by the participants were:

1. A concern about the accessibility of the shelters in Puerto Rico, not prepared for PWDs, mobility issues or medical needs. People who had life sustaining medical equipment, for example, did not have access to connect them in the shelter.
2. Emergency preparedness plans in Puerto Rico are not inclusive.
3. The state inventory tax imposed on the island limits the resources on hand if a drastic change of demand comes in effect; a situation that is confronted when a disaster or emergency hits.
4. Ineffective communication of communicating important information during an emergency in accessible formats. Often news channels and government communication concerning emergency instructions or updates fail to include a sign language interpreter or literature distributed in alternate formats. This practice compromises the safety of people who have communication barriers.

Compliance of Accessibility Guides in the Americans with Disabilities Act (ADA)

The accessibility standards of facility reconstruction projects that use federal funds on the island were discussed (Section 504). The need for accessible public transportation is very limited on the island and extremely necessary. In San Juan there are two companies that offer accessible transportation services, Llama y Viaje and Transcita. However, these are only available during the week. Most other municipalities have fewer alternatives, many only offering transportation for medical appointments. There are no transportation alternatives for PWDs to assist in getting to a jobsite, participate in social activities or recreational outings. The mass transportation system in Puerto Rico is very limited as well and the limited accessible seating is usually occupied by other passengers.

Home Ownership Issues and FEMA Support on the Island

The question asked was whether the challenges in proving title ownership of their homes affected the qualification process with FEMA for aid. Comments from participants established that having ownership for their homes did not guarantee the funds were going to be approved. One of the situations many of the residents of Puerto Rico entailed after Hurricane Maria was the absence of official documentation of ownership for their property. People without documentation were not eligible to receive individual assistance funds from FEMA. FEMA later approved assistance requests with an affidavit, but many were not accepted. To this day thousands of people still have blue tarps in their homes.

This discussion among NCD board members and Puerto Rican citizens highlighted that even though Puerto Ricans have American citizenship, they do not have access to equal federal benefits compared to residents of the United States. Many funds and programs provided to PWDs in the United States are not available in Puerto Rico, resulting in limited services and limitation of resources essential for their health and wellbeing. It is important that the voices of PWDs be heard and that the disparities be addressed in order to improve their economic status and living conditions.

Appendix B: Comparison of the percentage of adults with select types of functional disability between the United States’ unincorporated organized territories and the states.

Note: There seems to be variability in terms of actual percentage, this difference can be attributed to many factors. No information could be found about this topic for the Northern Mariana Islands.

Types of disabilities	United States	Guam	Puerto Rico	USVI
Mobility: Serious difficulty walking or climbing stairs.	12.9%	15.9%	21.8%	10.4%
Cognition: Serious difficulty concentrating, remembering, or making decisions.	11.4%	10.7%	15.4%	10%
Independent living: Difficulty doing errands alone, such as visiting a doctor’s office or shopping.	7.0%	7.6%	12.8%	5.5%
Hearing: Deafness or serious difficulty hearing.	5.6%	6.6%	7.0%	3.1%
Vision: Blind or serious difficulty seeing, even when wearing glasses.	4.7%	7.8%	16.6%	4.7%
Self-care: Difficulty dressing or bathing.	3.8%	3.5%	7.0%	1.9%

Source: Centers for Disease Control and Prevention. “Disability And Health Data System (DHDS) | CDC.” CDC.gov. April 7, 2021. https://www.cdc.gov/ncbddd/disabilityandhealth/dhds/index.html?CDC_AA_refVal.

Appendix C: Tables of Medicaid

Table A5.1-A.5.6 Tables A.1 through A.6 show comparative data of Medicaid programs available in New York, Pennsylvania, New Jersey, Florida, Massachusetts, and Puerto Rico. The table includes information regarding eligibility, mandatory, and optional benefits in addition to spending per enrollee and federal medical assistance percentage (FMAP). Puerto Rico has the highest income index necessary to be eligible for Medicaid when compared to New York, Pennsylvania, New Jersey, Florida, and Massachusetts. Puerto Rico only provides 10 of the 17 mandatory benefits and 13 optional benefits. Spending per enrollee is lower in Puerto Rico than in any of the compared states, with only \$2,144 spent per enrollee. The FMAP in Puerto Rico is capped at 50 percent, but has a spending ceiling because of the 1108 federal cap. The 1108 cap is determined by the rate of the medical care component of the CPI-U.

Table A 3.1: Comparison of Medicaid Eligibility, Benefits, FMAP, and Spending per Enrollee

State or Territory: New York (2020)
<p>Eligibility Requirements:</p> <ul style="list-style-type: none"> ▪ Adults in New York with incomes up to 138 percent of the poverty level are eligible for Medicaid. ▪ Pregnant women and children under the age of one are eligible with an income of up to 218 percent of the poverty level. ▪ Children from age one to 18 are eligible for Medicaid with a household income up to 149 percent of poverty, but the state also has separate CHIP coverage available for children with household incomes up to 400 percent of the poverty level.
<p>Mandatory and Optional Benefits</p> <p>Mandatory benefits:</p> <ul style="list-style-type: none"> ▪ Hospital services for inpatients and outpatients ▪ Health screenings for individuals and children under age 21 ▪ Nursing facility care and home healthcare ▪ Physician checkups and other services including rural health clinic visits ▪ Visits to federally qualified health centers ▪ Laboratory tests and X-rays ▪ Family planning

(continued)

State or Territory: New York (2020)

- Nurse midwife care or maternity care and newborn care
- Visits to pediatric and family nurse practitioners
- Visits to licensed freestanding birth centers
- Emergency and non-emergency medical transportation
- Tobacco cessation programs for pregnant women

Optional benefits:

- Hospital services for inpatients and for outpatients
- Health screenings for individuals and children under 21
- Nursing facility care and home healthcare
- Physician checkups and other services including rural health clinic visits
- Visits to federally qualified health centers
- Laboratory tests and X-rays
- Family planning
- Nurse midwife care or other maternity care and newborn care,
- Visits to pediatric and family nurse practitioners
- Visits to licensed freestanding birth centers
- Emergency and non-emergency medical transportation
- Tobacco cessation programs for pregnant women

Spending per Enrollee and FMAP

- New York spent \$7,806 per enrollee in 2020.
- Because New York is a state, the amount awarded for financing (FMAP) Medicaid in New York is determined by the state's per capita income relative to the nation's per capita income. New York FMAP for 2020 was 50 percent.

Sources:

"Medicaid Spending per Enrollee (Full or Partial Benefit)." *Kaiser Family Foundation (KFF)*. January 20, 2021, <https://www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

"Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier," *Kaiser Family Foundation (KFF)*, January 20, 2021, <https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=1&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

"New York and the ACA's Medicaid expansion," *Health Insurance*, January 20, 2021, <https://www.healthinsurance.org/new-york-medicaid/>.

"Medicaid spending in New York," *Ballotpedia*, January 24, 2021, https://ballotpedia.org/Medicaid_spending_in_New_York.

Table A 3.2: Comparison of Medicaid Eligibility, Benefits, FMAP and Spending per Enrollee

State or Territory: Pennsylvania (2020)
<p>Eligibility Requirements:</p> <ul style="list-style-type: none"> ▪ All legally present, non-disabled adults under age 65 living in Pennsylvania—parents or not—are eligible for Medicaid with household incomes up to 138 percent of the poverty level, as long as they meet Medicaid’s immigration requirements. ▪ Children are eligible for Medicaid or CHIP if their household income doesn’t exceed 319 percent of poverty level.
<p>Mandatory and Optional Benefits</p> <p>Mandatory benefits:</p> <ul style="list-style-type: none"> ▪ Hospital services for inpatients and outpatients ▪ Health screenings for individuals and children under age 21 ▪ Nursing facility care and home healthcare ▪ Physician checkups and other services including health clinic visits ▪ Visits to federally qualified health centers ▪ Laboratory tests and X-rays ▪ Family planning ▪ Nurse midwife care or other maternity care and newborn care ▪ Visits to pediatric and family nurse practitioners ▪ Visits to licensed freestanding birth centers ▪ Emergency and non-emergency medical transportation ▪ Tobacco cessation programs for pregnant women <p>Optional benefits:</p> <ul style="list-style-type: none"> ▪ Freestanding ambulatory surgery centers ▪ Public and mental health clinics ▪ Chiropractic care ▪ Dental care ▪ Dental surgery ▪ Optometrists ▪ Podiatrists ▪ Dentures ▪ Eyeglasses ▪ Home medical equipment ▪ Prosthetics ▪ Adult health screenings ▪ Case management ▪ Home or community-based long-term care

(continued)

State or Territory: Pennsylvania (2020)

- Program of All-Inclusive Care for the Elderly (PACE)
- Inpatient psychiatric care for individuals under age 21
- Inpatient care for mental diseases for individuals aged 65 and over
- Intermediate care for intellectual disabilities

Spending per Enrollee and FMAP Pennsylvania spent \$8,780 per enrollee in 2020. Because Pennsylvania is a state, the amount awarded for financing (FMAP) Medicaid in Pennsylvania is determined by the state's per capita income relative to the nation's per capita income. Pennsylvania FMAP for 2020 was 52.25 percent.

Sources:

"Medicaid Spending per Enrollee (Full or Partial Benefit)," Kaiser Family Foundation, January 20, 2021, <https://www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/?currentTimeframe=0&sortModel=%7B%22collid%22:%22Location%22,%22sort%22:%22asc%22%7D>.

"Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier," Kaiser Family Foundation, January 20, 2021, <https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=1&sortModel=%7B%22collid%22:%22Location%22,%22sort%22:%22asc%22%7D>.

"Pennsylvania and the ACA's Medicaid Expansion," *Health Insurance*, January 20, 2021, <https://www.healthinsurance.org/pennsylvania-medicaid/>.

"Medicaid spending in Pennsylvania," *Ballotpedia*, January 24, 2021, https://ballotpedia.org/Medicaid_spending_in_Pennsylvania.

Table A.3.3: Comparison of Medicaid Eligibility, Benefits, FMAP and Spending per Enrollee

State or Territory: New Jersey (2020)

Eligibility Requirements:

In addition to the aged, blind, and disabled, the following New Jersey residents are eligible for Medicaid:

- Adults with incomes up to 138 percent of the poverty level.
- Children with household incomes up to 350 percent of the poverty level are eligible for CHIP in New Jersey.
- Pregnant women with incomes up to 200 percent of the poverty level.

Mandatory and Optional Benefits

Mandatory benefits:

- Hospital services for inpatients and outpatients
- Health screenings for individuals and children under age 21
- Nursing facility care and home healthcare
- Physician checkups and other services including rural health clinic visits
- Visits to federally qualified health centers
- Laboratory tests and X-rays
- Family planning

State or Territory: New Jersey (2020)

- Nurse midwife care or other maternity care and newborn care
- Visits to pediatric and family nurse practitioners
- Visits to licensed freestanding birth centers
- Emergency and non-emergency medical transportation
- Tobacco cessation programs for pregnant women

Optional benefits:

- Freestanding ambulatory surgery centers
- Public and mental health clinics
- Chiropractic care
- Dental care
- Dental surgery
- Optometrists
- Podiatrists
- Psychologists
- Dentures
- Eyeglasses
- Hearing aids
- Home medical equipment
- Prosthetics
- Adult health screenings
- Case management
- Home or community-based long-term care
- Personal care
- Program of All-Inclusive Care for the Elderly (PACE)
- Inpatient psychiatric care for individuals under age 21
- Inpatient care for mental diseases for individuals aged 65 and over
- Intermediate care for intellectual disabilities
- Religious nonmedical care

Spending per Enrollee and FMAP

- New Jersey spent \$6,921 per enrollee in 2020.
- Because New Jersey is a state, the amount awarded for financing (FMAP) Medicaid in New Jersey is determined by the state's per capita income relative to the nation's per capita income. New Jersey FMAP for 2020 was 50 percent.

Sources

"Medicaid Spending per Enrollee (Full or Partial Benefit)," *Kaiser Family Foundation (KFF)*, January 20, 2021, <https://www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/?currentTimeframe=0&sortModel=%7B%22collId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

(continued)

State or Territory: New Jersey (2020)

"Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier," *Kaiser Family Foundation (KFF)*, January 20, 2021, <https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=1&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

"New Jersey and the ACA's Medicaid Expansion," *Health Insurance*, January 20, 2021, <https://www.healthinsurance.org/new-jersey-medicaid/>.

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Table A.3.4: Comparison of Medicaid Eligibility, Benefits, FMAP and Spending per Enrollee

State or Territory: Florida (2020)

Eligibility Requirements:

Able-bodied, non-elderly adults who don't have dependents are not eligible for Medicaid in Florida, regardless of their income.

Florida's eligibility standards are:

- Children up to one year old: 206 percent of the federal poverty level (FPL)
- Children ages one through five up to 140 percent of FPL
- Children ages six through 18 up to 133 percent of FPL
- Pregnant women up to 191 percent of FPL
- Adults with dependent children up to 27 percent of FPL
- Be 65 years of age or older

* People who qualify for Supplemental Security Income (SSI) automatically qualify for Medicaid in Florida.

Mandatory and Optional Benefits

Mandatory benefits:

- Hospital services for inpatients and outpatients
- Health screenings for individuals and children under age 21
- Nursing facility care and home healthcare
- Physician checkups and other services including rural health clinic visits
- Visits to federally qualified health centers
- Laboratory tests and X-rays
- Family planning
- Nurse midwife care or other maternity care and newborn care
- Visits to pediatric and family nurse practitioners
- Visits to licensed freestanding birth centers
- Emergency and non-emergency medical transportation
- Tobacco cessation programs for pregnant women

State or Territory: Florida (2020)

Optional benefits:

- Freestanding ambulatory surgery centers
- Public and mental health clinics
- Chiropractic care
- Dental care
- Dental surgery
- Optometrists
- Podiatrists
- Psychologists
- Dentures
- Eyeglasses
- Hearing aids
- Home medical equipment
- Prosthetics
- Adult health screenings
- Case management
- Home or community-based long-term care
- Personal care
- Program of All-Inclusive Care for the Elderly (PACE)
- Inpatient psychiatric care for individuals under age 21
- Inpatient care for mental diseases for individuals age 65 and over
- Intermediate care for intellectual disabilities
- Religious nonmedical care

Spending per Enrollee and FMAP

- Florida spent \$4,213 per enrollee in 2020.
- Because Florida is a state, the amount awarded for financing (FMAP) Medicaid in Florida is determined by the state's per capita income relative to the nation's per capita income. Florida FMAP for 2020 was 61.47 percent.

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Table A.3.5: Comparison of Medicaid Eligibility, Benefits, FMAP and Spending per Enrollee

State or Territory: Massachusetts (2020)
<p>Eligibility Requirements Individuals qualify with incomes up to the following levels:</p> <ul style="list-style-type: none"> ▪ Children up to one year old: 200 percent of the federal poverty level ▪ Children ages one to 18: 150 percent of FPL ▪ Pregnant women are covered with a family income up to 200 percent of the FPL. ▪ Children with family income too high to qualify for Medicaid and pregnant women who aren't eligible for Medicaid due to immigration status are eligible for the Children's Health Insurance Program (CHIP); CHIP is available to kids with a family income up to 300 percent of FPL and to non-resident pregnant women with income up to 200 percent of FPL. ▪ Parents and other adults are covered with incomes up to 138 percent of FPL.
<p>Mandatory and Optional Benefits Mandatory benefits:</p> <ul style="list-style-type: none"> ▪ Hospital services for inpatients and outpatients ▪ Health screenings for individuals and children under age 21 ▪ Nursing facility care and home healthcare ▪ Physician checkups and other services including health clinic visits ▪ Visits to federally qualified health centers ▪ Laboratory tests and X-rays ▪ Family planning ▪ Nurse midwife or other maternity care and newborn care ▪ Visits to pediatric and family nurse practitioners ▪ Visits to licensed freestanding birth centers ▪ Emergency and non-emergency medical transportation ▪ Tobacco cessation programs for pregnant women
<p>Optional benefits:</p> <ul style="list-style-type: none"> ▪ Freestanding ambulatory surgery centers ▪ Public and mental health clinics ▪ Chiropractic care ▪ Dental care ▪ Dental surgery ▪ Optometrists ▪ Podiatrists

State or Territory: Massachusetts (2020)

- Psychologists
- Occupational therapy
- Physical therapy
- Speech, hearing, or language therapy
- Dentures
- Eyeglasses
- Hearing aids
- Home medical equipment
- Prosthetics
- Adult health screenings
- Case management
- Home or community-based long-term care
- Personal care
- Private duty nurse
- Program of All-Inclusive Care for the Elderly (PACE)
- Inpatient psychiatric care for individuals under age 21
- Inpatient care for mental diseases for individuals aged 65 and over
- Intermediate care for intellectual disabilities

Spending per Enrollee and FMAP

- Massachusetts spent \$7,898 per enrollee in 2020.
- Because Massachusetts is a state, the amount awarded for financing (FMAP) Medicaid in Massachusetts is determined by the state's per capita income relative to the nation's per capita income. Massachusetts FMAP for 2020 was 50 percent.

Sources:

"Medicaid Spending per Enrollee (Full or Partial Benefit)," *Kaiser Family Foundation (KFF)*, January 20, 2021, <https://www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/?currentTimeframe=0&sortModel=%7B%22colld%22:%22Location%22,%22sort%22:%22asc%22%7D>.

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Table A.3.6: Comparison of Medicaid Eligibility, Benefits, FMAP and Spending per Enrollee

State or Territory: Puerto Rico (2020)
<p>Eligibility Requirements:</p> <ul style="list-style-type: none"> ▪ Puerto Rico currently provides coverage to individuals with modified adjusted gross incomes up to 133 percent of the Puerto Rico Poverty Level (PRPL), \$11,316 annually for a family of four. ▪ This represents 43 percent of the federal poverty level (FPL), which is \$26,200 for a family of four in 2020.
<p>Mandatory and Optional Benefits</p> <p>Mandatory benefits:</p> <ul style="list-style-type: none"> ▪ Early and periodic screening, diagnostic and treatment services for individuals under 21 ▪ Inpatient hospital services ▪ Laboratory and X-rays ▪ Medical or surgical services by a dentist ▪ Outpatient hospital services ▪ Physical services ▪ Tobacco cessation for pregnant women ▪ Family planning services ▪ Federally qualified health services ▪ Rural health clinic services <p>Optional benefits:</p> <ul style="list-style-type: none"> ▪ Clinic services ▪ Dental services ▪ Eyeglasses and prosthetics ▪ Outpatient prescription drugs ▪ Physical therapy and related services ▪ Diagnostic, screening, preventive, and rehabilitation services ▪ Inpatient psychiatric hospital services for individuals under age 21 ▪ Inpatient hospital and nursing facility services for individuals 65 or over in institution for mental diseases.
<ul style="list-style-type: none"> ▪ Medicaid federal reimbursement rate known as FMAP is calculated based on the state's per capita income relative to the nation's per capita income, providing higher rates to poorer states. Puerto Rico and the other U.S. territories are assigned a permanent FMAP of 50 percent and subsequently increased to 55 percent under the Patient Protection and Affordable Care Act (ACA).

State or Territory: Puerto Rico (2020)

- However, the FMAP formula is applied until the 1108 federal cap is reached. The 1108 cap is a mandatory ceiling for Medicaid funds. The funding cap increases at the rate of the medical care component of the CPI-U.
- The Puerto Rican spending per enrollee projected for 2020 was 2,144. Lower than any other state.

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Appendix D: Comparison of the number of school-age students served under IDEA, Part B, in 2019–2020, in U.S. unincorporated organized territories. Note: table shows a comparison of the number of school-age students served under IDEA, Part B, in 2019–2020, in U.S. unincorporated organized territories

U.S. Unincorporated Organized Territories	Number of Children Served from 5 to 21 Years of Age
Puerto Rico	95,112
American Samoa	520
Guam	1,706
Northern Mariana Islands	914
USVI	1,025

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