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**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

April 8, 2021

Shalanda Young  
Acting Director  
Office of Management and Budget  
725 17th St NW  
Washington, DC 20503

Dear Acting Director Young:

Currently, close to 3.5 million Americans living in the U.S. Territories of American Samoa, the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands experience a significant problem of inequity with respect to accessing several federal programs. Earlier this year, President Biden signed Executive Order (EO) 13985: *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* to assess and address barriers to accessing federal programs and services among historically underserved populations.<sup>1</sup> As we continue to work with the Biden-Harris administration on possible legislative solutions to eliminate barriers for Americans residing in U.S. Territories, we respectfully request the Office of Management and Budget (OMB) support expanding access to federal programs in these jurisdictions, and ensure this priority is addressed in the report required by EO 13985 and in the President's FY 2022 budget, as appropriate. Additionally, we request that OMB issue a Circular that provides guidance to federal agencies for guaranteeing equal treatment to residents of U.S. Territories in federal programs, whenever discretion exists for them to do so.

In recent months, President Biden has taken several actions to begin addressing critical issues that threaten our nation, including the coronavirus pandemic, a global climate crisis, and deeply entrenched social and economic disparities. Among these actions was EO 13985, signed January 20<sup>th</sup>, 2021.<sup>2</sup> This order instructs OMB to partner with the heads of federal agencies to study existing gaps in access to federal programs among eligible individuals and identify the best methods for removing these barriers.

Americans residing in U.S. Territories face longstanding barriers that limit or exclude them from equal access to Medicaid, the Supplemental Security Income (SSI) program, the Supplemental Nutrition Access Program (SNAP), the Temporary Assistance for Needy Families

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<sup>1</sup> *Executive Order 13985 of January 20, 2021: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, Executive Office of the President (January 25, 2021), available at <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>.

<sup>2</sup> *Id.*

(TANF) program, and more. Expanding eligibility in these important federal programs to residents of U.S. Territories aligns with President Biden’s commitment to guaranteeing equal opportunity to all Americans and ending systemic racism.<sup>3</sup> Residents of U.S. Territories—more than 95% of whom are racial or ethnic minorities—experience issues of inequity and systemic racism resulting from antiquated and discriminatory federal policies that relegate these Americans to a second-class status. This inequality is a legacy of the *Insular Cases*, a series of controversial early 1900s Supreme Court decisions that have been criticized as establishing a doctrine of “separate and unequal” status based on expressly racist attitudes and assumptions towards residents of Puerto Rico, Guam, and other overseas territories.<sup>4</sup>

President Biden’s executive order is an impetus to rectify these outdated policies and help bring the legacy of the *Insular Cases* to an end by ensuring federal services and benefits are available to all Americans, wherever they live. As we continue to work with the Biden-Harris administration on possible legislative solutions to expand access to federal programs for Americans residing in U.S. Territories, we encourage OMB to support this priority and ensure it is included in the executive order report.

## 1. Medicaid<sup>5</sup>

Medicaid is a federal and state health insurance program that provides health care coverage to families and individuals with limited income and resources. Federal Medicaid funding is arbitrarily capped for U.S. Territories, so it does not respond to the temporary needs of a pandemic or to changing economic conditions, as in States.<sup>6</sup> In addition, the local matching contribution for federal funding is set by law in the territories rather than being based on per-capita income, as it is for each State. The FY17 Obama-Biden budget proposed fixing these inequities by removing the cap and gradually increasing the Federal matching contribution;<sup>7</sup> this proposal remains sound. Without it or similar action, the territories face a Medicaid “cliff” at the end of FY21, as supplemental funding is exhausted, jeopardizing the health of thousands of low-income Americans residing in these jurisdictions.<sup>8</sup>

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<sup>3</sup> *The Biden Plan To Build Back Better By Advancing Racial Equity Across The American Economy*, JoeBiden.com, available at <https://joebiden.com/racial-economic-equity/>.

<sup>4</sup> Neil Weare, Rosa Hayes, and Mary Charlotte Carroll, *The Constitution, COVID-19, and Growing Healthcare Disparities in U.S. Territories*, ACS Expert Forum (April 28, 2020), available at <https://www.acslaw.org/expertforum/the-constitution-covid-19-and-growing-healthcare-disparities-in-u-s-territories/>.

<sup>5</sup> Two pieces of legislation introduced in the 117<sup>th</sup> Congress seek to extend Medicaid coverage in the territories: [H.R. 265](#), the *Insular Area Medicaid Parity Act*, eliminates Medicaid funding limitations for U.S. territories beginning in FY2021; and [H.R.1722](#) amends titles XI and XIX of the Social Security Act to stabilize the Medicaid program in Puerto Rico.

<sup>6</sup> Judith Solomon, *Medicaid Funding Cliff Approaching for U.S. Territories*, Center for Budget and Policy Priorities (June 19, 2019), available at <https://www.cbpp.org/blog/medicaid-funding-cliff-approaching-for-us-territories>.

<sup>7</sup> *The Budget for Fiscal Year 2017: Meeting Our Greatest Challenges: Opportunity for All*, The Obama White House (February 9, 2016), p. 30, available at <https://obamawhitehouse.archives.gov/sites/default/files/omb/budget/fy2017/assets/opportunity.pdf>.

<sup>8</sup> *Id.*

## 2. Supplemental Security Income (SSI)<sup>9</sup>

SSI benefits are granted to elderly, blind, and disabled individuals with financial need. However, otherwise eligible residents of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands are excluded from these benefits, based solely on where they happen to live.

## 3. Supplemental Nutrition Assistance Program (SNAP)

The SNAP program provides benefits to food-insecure Americans during times of high poverty, unemployment, and economic downturns. Currently, these benefits are not available to American Samoa, the Northern Mariana Islands, and Puerto Rico. Instead, each receives a fixed block grant, which arbitrarily limits the amount of nutrition assistance funding received by families in these three territories, again, based solely on where they happen to live.<sup>10</sup>

## 4. Temporary Assistance for Needy Families (TANF)<sup>11</sup>

The TANF program provides financial assistance and other support services to low-income families with children. TANF programs currently operate in three territories: Puerto Rico, Guam, and the U.S. Virgin Islands.<sup>12</sup> American Samoa is eligible, but has opted not to participate in the program.<sup>13</sup> However, because the Northern Mariana Islands had not established an Aid to Families with Dependent Children (AFDC) program when AFDC was replaced by TANF in 1996, the territory is not eligible for TANF under current federal law.<sup>14</sup>

The expansion of these federal programs to residents of U.S. Territories is essential to carrying out the mission of advancing equity among underserved communities ordered by President Biden. We strongly believe that Congress has a responsibility to address the inequitable access to these programs. For this reason, we respectfully request that OMB join us in supporting expanding access to federal programs in these jurisdictions, and ensures this priority is addressed in the report required by EO 13985 and in the President's FY 2022 budget, as appropriate.

In addition, we also request that OMB issue a Circular that provides guidance to federal agencies that they shall provide equal treatment to residents of U.S. Territories in federal programs whenever discretion exists for them to do so. Oftentimes Americans in U.S. Territories are left behind in federal programs or otherwise fall through the cracks simply as a result of

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<sup>9</sup> [H.R. 537](#) seeks to extend the SSI program to Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa.

<sup>10</sup> Brynne Keith-Jennings, *Introduction to Puerto Rico's Nutrition Assistance Program*, Center for Budget and Policy Priorities (November 3, 2020), available at <https://www.cbpp.org/research/food-assistance/introduction-to-puerto-ricos-nutrition-assistance-program>.

<sup>11</sup> [H.R. 1773](#) seeks to make the Commonwealth of the Northern Mariana Islands eligible to operate TANF programs.

<sup>12</sup> *House Committee on Ways and Means, Chapter 7: Temporary Assistance for Needy Families*, U.S. House of Representatives, available at <https://greenbook-waysandmeans.house.gov/2018-green-book/chapter-7-temporary-assistance-for-needy-families>.

<sup>13</sup> *Id.*

<sup>14</sup> *Aid to Families with Dependent Children (AFDC) and Temporary Assistance for Needy Families (TANF) – Overview*, U.S. Department of Health & Human Services (November 30, 2009), available at <https://aspe.hhs.gov/aid-families-dependent-children-afdc-and-temporary-assistance-needy-families-tanf-overview-0>.

agency oversight, even when equal treatment is permitted by statute. While some of the problems facing residents of U.S. Territories will require congressional action, federal agencies can do a lot on their own to help ensure Americans are not discriminated against in federal programs simply because of where they live.

Thank you for considering this request, and we would welcome the opportunity to engage with you and others further on these issues. Please contact Margarita Varela-Rosa with the Committee's Office of Insular Affairs at [Margarita.Varela-Rosa@mail.house.gov](mailto:Margarita.Varela-Rosa@mail.house.gov) or (202) 748-2828 if you have any questions about this request.

Sincerely,



Raúl M. Grijalva  
Chair  
House Committee on Natural Resources



Gregorio Kilili Camacho Sablan  
Vice Chair  
Office of Insular Affairs



Michael San Nicolas  
Member of Congress



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Cc:

Julie Chavez Rodriguez, Director for the White House Office of Intergovernmental Affairs