

(S.B. 1559)
(Conference)

(No. 249)

(Approved November 17, 2006)

AN ACT

To create the Special Health Fund Act; create said special fund, authorize the Government Development Bank for Puerto Rico to grant a loan of two hundred and fifty-three (253) million dollars, plus the interest agreed; establish the mechanism for the payment of the loan herein authorized and the return of the moneys contributed to the Special Fund by the State Insurance Fund Corporation; provide as to the use of the resources of said Special Fund; create a committee to implement this Act and establish its responsibilities; and to provide for its effectiveness.

STATEMENT OF MOTIVES

It is a fundamental and a top priority responsibility of the Commonwealth of Puerto Rico to oversee for the health of its citizens. To those effects, Act No. 72 of September 7, 1993, as amended, authorizes the Health Services Administration [sic] (ASES, Spanish acronym) to arrange for, negotiate with and contract insurers and health services providers to bestow upon their beneficiaries, particularly the medically indigent, quality medico-hospital services.

In spite of the achievements attained, it is nevertheless true that our society still has urgent needs in the field of health that lessen the quality of life of the Puerto Rican people. At present, our Government faces serious

budgetary limitations that have a detrimental impact on the rendering of medico-hospital services. As in past years, the Health Reform Program presently faces an insufficiency of resources amounting to three hundred and sixteen (316) million dollars, a situation that puts at risk the services offered to over 1.5 million of our citizens. This deficit has remained even when the Government has significantly increased the budgetary appropriations for the Health Insurance Administration (ASES, Spanish acronym), the government instrumentality responsible for contracting and negotiating the health services coverage with insurers, mental health organizations and drugstore administrators.

In order to correct this insufficiency of resources in the implementation of the Health Reform and to cover other needs of the Puerto Rico Medical Services Administration (ASEM, Spanish acronym), the Government Development Bank is hereby authorized to make a loan in the amount of two hundred and fifty-three (253) million dollars which shall be paid through contributions to be made by the State Insurance Fund Corporation to the Special Fund created by this Act. The State Insurance Fund Corporation shall, in turn, recover said contributions through special appropriations provided to that effect in the General Budget Joint Resolution of the Government of the Commonwealth of Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-This Act shall be known as the “Special Health Fund Act.”

Section 2.-The Special Health Fund, henceforth the Special Fund, is hereby created for the purpose of satisfying economic needs and overseeing the efficiency of several agencies associated with the field of health as provided in this Act.

Section 3.-The Government Development Bank for Puerto Rico is hereby authorized to grant a loan in the amount of two hundred and fifty-three (253) million dollars, plus the interest agreed to the Special Fund herein created.

Section 4.-The loan granted by the Government Development Bank as well as the applicable interest shall be paid through contributions to be made by the State Insurance Fund Corporation according to the obligation authorized in Section 3 under the same contributions and terms structure described in Section 5 of this Act. The General Fund of the Commonwealth of Puerto Rico shall, in turn, answer to the State Insurance Fund Corporation for said contributions pursuant to the provisions of Section 5 of this Act.

Section 5.-The contributions made by the State Insurance Fund Corporation, as well as the interest accrued computed on the basis of the rate of the bonds of the Treasury of the United States of America to ten (10) years, shall be returned to said public corporation by means of special appropriations provided to that effect in the General Budget Joint Resolution of the Government of the Commonwealth of Puerto Rico, pursuant to the following:

a)	Fiscal Year 2007-2008	\$23,000,000 + applicable interest
b)	Fiscal Year 2008-2009	46,400,000 + applicable interest
c)	Fiscal Year 2009-2010	46,400,000 + applicable interest
d)	Fiscal Year 2010-2011	46,400,000 + applicable interest
e)	Fiscal Year 2011-2012	46,400,000 + applicable interest
f)	Fiscal Year 2012-2013	44,400,000 + applicable interest
	Total	\$253,000,000 + applicable interest

Section 6.-In order to implement the provisions of this Act, a Committee of five (5) members is hereby created, constituted by the

Secretary of the Department of Health of Puerto Rico, who shall be its chair; the Secretary of the Department of the Treasury; the Executive Director of the Health Services Administration [sic] (ASES, Spanish acronym) and two (2) members of the Legislature belonging to each legislative body to be designated by their respective President and Speaker. Three (3) members of the Committee shall constitute quorum and the affirmative vote of three (3) members shall be needed for taking any action or making any determination. Said Committee shall approve regulations to govern its functions.

Section 7.-It is hereby provided that the special appropriations fixed in Section 5 of this Act shall be repaid to the State Insurance Fund Corporation within a period of not more than sixty (60) days after the beginning of the corresponding fiscal year, and it is furthermore established that the contributions to be repaid by the State Insurance Fund Corporation to the Government Development Bank pursuant to Section 4 of this Act shall be made effective within a period of not less than seventy-five (75) days after the beginning of the corresponding fiscal year. Noncompliance with these terms does not relieve the State Insurance Fund Corporation from its responsibility pursuant to the parameters of this Act, and any additional profit said public corporation may generate as product of the early acquisition of the special appropriation shall be to the benefit of the latter.

Section 8.-Appropriation of Funds

a) The amount of fifty (50) million dollars is hereby appropriated to the Puerto Rico Medical Services Administration, chargeable to the Special Fund, to finance during fiscal year 2006-2007, treatment, trauma, emergency room and worker rehabilitation programs at the Medical Center; and to finance during said term, proposals for public rehabilitation and training programs available for workers; provided, that the Puerto Rico

Medical Services Administration shall settle with said funds the existing debt of the Department of Health with these.

b) The sum of two hundred three (203) million dollars is hereby appropriated to the Health Services Administration [sic], chargeable to the Special Fund, to be used during fiscal year 2006-2007 for the Health Reform Program, of which twenty-three (23) million dollars shall be assigned to cover the cost of the co-payment to which the insured would be subject to said fiscal year. In order to optimize the fiscal resources assigned to the mental health services contracted by ASES, the funds assigned in this subsection shall be conditioned to whether any change in the model for rendering health services complies with the following provisions:

1. That they have begun on or before November 1, 2006.
2. That the cost of any new model for providing services by government and non-government entities (e.g. Direct Contracting, Contracting through Insurers and MBHOs (Managed Behavioral Healthcare Organizations), Pharmacy Benefit, ASSMCA (Mental Health and Anti-addiction Services Administration) is less than the cost of the model whose replacement is intended.
3. That the private entity handling the contracting of discounts for trademark pharmaceutical products with pharmaceutical companies for ASES, and the affiliates of said private entity, may not be able to purchase, sell or distribute trademark pharmaceutical products in the local market.
4. The ASSMCA shall operate and report to ASES under the same terms and conditions as the MBHOs and shall maintain the funds of the pilot project separate from the rest of its funds so that the results may be compared.

5. Within a term of twenty (20) days as of the effective date of this Joint Resolution, the Executive Director of the Health Insurance Administration shall submit to the Legislature a Comprehensive Report related to the projected use of the fiscal resources herein appropriated that shall be devoted to rendering mental health services by ASSMCA. Said Report shall contain a comparison of services under the various models indicating the number of providers by category, patients attended to, medications dispensed and the cost of the medications per patient.

6. The evaluation of the quality of the mental health services must be made by an independent entity.

7. Once the funds specific to the account for rendering mental health services have been assigned, the Executive Director of ASES shall have the continuous duty of informing the Legislature about any situation that may affect the projections concerning the costs and expenses submitted in the Comprehensive Report that served as basis for the assignment of funds to ASSMCA, whose pilot project shall be reevaluated every six months.

Section 9.-The Committee created by virtue of Section 5 of this Act shall render an annual report to the Governor of Puerto Rico and to the Legislature about the implementation of this Act that will cover every fiscal year and that must be submitted on or before September 1 of each year. Said Report shall attend to the following matters, among others:

i. The new model for contracting by ASES must be more cost effective than the model for providing services whose replacement is intended.

ii. That in order to provide evidence that the new model is more cost effective than the existing one, a competition process among properly

qualified bidders must be conducted to include the solicitation of current quotations and a comparison of both models in budgetary terms.

Section 10.-The Special Fund herein established shall last for four years and six months or until the totality of the funds is used, whichever occurs first.

Section 11.-This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 249 (S.B. 1559) (Conference) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to create the Special Health Fund Act; create said special fund, authorize the Government Development Bank for Puerto Rico to grant a loan of two hundred and fifty-three (253) million dollars, plus the interest agreed; establish the mechanism for the payment of the loan herein authorized and the return of the moneys contributed to the Special Fund by the State Insurance Fund Corporation; provide as to the use of the resources of said Special Fund; create a committee to implement this Act and establish its responsibilities; and to provide for its effectiveness,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 15th of October of 2007.

Francisco J. Domenech
Director