

**PUERTO RICO'S DEPARTMENT OF HEALTH MISINFORMS
US CONGRESS,
US DEPARTMENT OF HEALTH, NATIONAL HIV/AIDS ADVOCACY
ORGANIZATIONS AND PUERTO RICO'S HIV/AIDS COMMUNITY**

April 26, 2008



There is no Pharmaceutical Benefits Manger (PBM) contract currently registered in the [Puerto Rico Office of the Controller](#) (OCPR) that documents a relationship between the Puerto Rico Department of Health (PR DOH) and any entity acting as a PBM for the AIDS Drug Assistance Program (ADAP) according to Carlos Pérez Rivera, Contracts Administrator for the OCPR. All contracts (OCPR Regulation 33, October 5, 2004) between Puerto Rico government agencies and an outside contractor, vendor, supplier or intra-agency collaborative agreements must be filed with the OCPR before the relationship can be executed and disbursements made, informs Mr. Pérez Rivera.

This finding contradicts earlier statements and presentations offered by spokespersons of the PR DOH to

the members of the President's Advisory Council on HIV/AIDS (PACHA), the US Congress, and specifically legislative staffers of the Congressional Hispanic Caucus (CHC), the Senate Health Educations, Labor and Pension (HELP) committee, and the US Department of Health and Human Services (HHS, specifically HRSA). It also contradicts statements made to the Latino AIDS Action Summit during the January 2008 meeting as well as follow up meetings with National and Puerto Rico based HIV/AIDS advocacy organizations.

In a PR DOH presentation offered in several of these forums titled "Congressional Briefing, The Puerto Rico HIV/AIDS Work plan: Progress Report" Achievement #9 states that with respect to ADAP medication there is in progress a;

Phased Implementation of a PBM among the pharmacies of the DoH

- ✓ On **January 1, 2008**, a PBM began operations in the Carolina Regional Immunology Clinic (RICs), as well as in 14 other 330 Centers (the Consortium).
- ✓ The RICs of San Juan, Ponce, Arecibo, and Bayamon have already begun using a PBM
- ✓ Mayagüez will begin using a PBM in the pharmacy during **February 2008**.
- ✓ Starting in **April 2008** we expect Fajardo, Humacao, and Caguas to begin using private community pharmacies through a contract currently being negotiated.

"Congressional Briefing, The Puerto Rico HIV/AIDS Workplan: Progress Report" PowerPoint presentation, January 31, 2008, Dr. Jorge Delgado Rivas, PhD, Special Assistant to the Secretary of Health

If such a relationship exists and was contracted on a no-bid process to an existing suppliers or contractors without being registered in the OCPR as required by law, it may be operating in violation of Commonwealth and Federal regulations.

In a February 2008 meeting with Puerto Rico's HIV/AIDS advocacy community Dr. Jorge Delgado Rivas, one of the presenters of the "Progress Report" and Special Assistant to the Secretary of Health of Puerto Rico informed attendees that because of state electoral regulations the contracting of a third party administrator, as the HIV/AIDS community, HRSA and others have strongly recommended was not possible. Several of the HIV/AIDS advocates, who prefer not to be named, stated that they were then given a choice to endorse the contracting of a PBM using the current supplier that manages the Commonwealth Public Health Program know as "la Reforma" (for la Reforma de Salud, Public Health Reform program in English).

One of the advocates, himself a person living with HIV/AIDS (PLWA), said he felt uncomfortable endorsing something that seemed to violate the same state electoral regulations. If it was not possible to contract a third party administrator because of electoral regulations, how then is it possible to contract a PBM, he wondered. Puerto Rico Commonwealth electoral law, in an attempt to eliminate/reduce bribery and corruption during an election period, prohibits the contracting of services during limited portions of the campaign period.

PR DOH spokespersons flanked by HIV/AIDS Advocates and Congressional staff following the Latino AIDS Action Summit, 1/2008



PR DOH: History of ADAP Funds Mismanagement

ADAP funds mismanagement has plagued the PR DOH. Currently the US Health Departments Office of Inspector General (OIG) is scrutinizing an audit conducted in 2007 that when finalized may require that the PR DOH return to the Federal government \$28,000,000.00 in misused ADAP funds. A separate 2005 OIG audit (A-02-03-02002) concluded that the PR DOH had misused \$2,685,824.00 (\$1,117,831 for inappropriate/inefficient purchases of ADAP medication and \$1,567,993.00 for unallowable expenses). In her cover letter to that report, Dr. Elizabeth Duke, Administrator, Health Resources and Services Administrator required that the PR DOH return the funds to the Federal government and outlined necessary corrective action. Some of the same discrepancies noted in the 2005 report today specifically “the Health Department (has) not established procedures to ensure that the CARE Act Title II program (is) the payer of last resort as required by the CARE Act.”

Similarly, a November 24, 2006 report of an audit conducted by the OCPR (OCPR Informe de Auditoria DB-07-13) concluded that the PR DOH mismanagement of the purchasing, inventory, and payment to suppliers of ADAP medication had cost the Commonwealth hundreds of thousands of dollars. The mismanagement is not limited to medication, however. One finding states that the deplorable conditions of one of the medical storage warehouses – moldy floors, expired products, dangerous obstructions – was not only threat to the patient care but also to the PR DOH staff working there. This finding cited an additional operation loss of \$10,000.00 due to a fine by the PR Department of Labor because the dangerous and dilapidated warehouse conditions presented an unhealthy environment for the PR DOH employees working there.

Given this prolonged history of ADAP funds mismanagement, it would be no surprise to find that the alleged PBM contracted to manage the ADAP funds, as proclaimed in Achievement 9 of the Puerto Rico HIV/AIDS progress report, is another in a long line of bungled PR DOH administrative misadventures. And, yet another administrative setback that further hinders the delivery of life-sustaining medication to Puerto Rico’s HIV/AIDS community.