

(H. B. 813)

**(No. 65-2013)**

(Approved July 19, 2013)

## **AN ACT**

To add a paragraph (5) to subsection (A) of Section 5 of Act No. 237-2004, and amend Article IX, Section 2 of Act No. 72-1993, as amended, by adding a subsection (h) in order to provide that any insurer or healthcare service provider wishing to contract with any instrumentality, entity, or agency of the Commonwealth of Puerto Rico, establish exceptions[sic]; shall certify to have no outstanding debts with the Puerto Rico Medical Services Administration (ASEM, Spanish acronym); and for other purposes.

### **STATEMENT OF MOTIVES**

Over the last two decades, the rise in demand and in the costs of healthcare services as well as the growing number of companies that provide direct and support services has resulted in more private companies contracting with the Commonwealth of Puerto Rico. As a result of Puerto Rico's current financial situation and these companies' profit-driven approach, many insurers have accumulated a large amount of debt with the Puerto Rico Medical Services Administration (ASEM) and the payment thereof is past due. Nevertheless, these companies continue contracting with different Government entities and benefitting from public structures, without satisfying their financial obligations to the Government of Puerto Rico.

The Legislative Branch recognizes that the operations of the Puerto Rico Medical Center are in a precarious situation as a result of the lack of funding and poor enforcement of collection actions for the services provided by ASEM to insurance companies and other government entities. It is unacceptable for

insurance companies to be seeking to tap into the million-dollar government procurement market through the health reform when they have failed to stay current on their debt or agree to enter into a payment plan with the main hospital center of the Island.

In order to avoid the aforementioned situation, this Act is hereby approved to require all healthcare service providers or insurers to certify that, at the time of execution of a contract, they have no outstanding debts with ASEM. This mechanism shall prevent the Commonwealth treasury from being affected by recurring outstanding debts. Furthermore, it provides an incentive for the settlement of debts, or otherwise no contract shall be awarded by the Commonwealth until proof is shown that there are no outstanding debts with ASEM.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- A new paragraph (5) is hereby added to subsection A of Section 5 of Act No. 237-2004, to read as follows:

“Section 5.- When awarding a contract, every government entity shall ensure compliance with the special laws and regulations applicable to the type of service to be contracted. In accordance with the foregoing, the following mandatory clauses shall be included in the contract:

A. The contractor shall certify that it has filed income tax returns for the five (5) taxable years preceding the year in which the contract is intended to be executed and that it has no outstanding tax debt with the Commonwealth of Puerto Rico of any sort; or that he has availed himself of a payment plan whose terms and conditions are being complied with.

For contracts whose payment for services exceeds \$16,000 per year, it shall be necessary to include the following certifications in the contract:

(1) Two certifications issued by the Department of the Treasury, one on the absence of tax debt or on the existence of a payment plan and another one certifying that income tax returns have been filed for the last five years.

(2) A certification issued by the Municipal Revenues Collection Center on the absence of any tax debt or on the existence of a payment plan.

(3) A certification issued by the Department of Labor and Human Resources on the payment of unemployment or temporary disability insurance, or social security, as applicable.

(4) A negative debt certification issued by the Child Support Administration. This requirement shall only apply if the contractor is an individual.

(5) For contracts executed with insurers or healthcare service providers, there shall be submitted a certification on the absence of any debt or on the existence of a payment plan with the Puerto Rico Medical Services Administration (ASEM) attesting to the fact that the plan is being complied with and is not past due. The date of issue of said certification shall not exceed sixty (60) days prior to the proposed effective date of the contract to be awarded by the Puerto Rico Health Insurance Administration (ASES). For purposes of this paragraph, debt shall be understood as any contractual obligation that entails the payment of a certain and specific amount of money that has become due and payable by the insurer or healthcare service provider. The foregoing notwithstanding, an obligation shall not be deemed to be an overdue debt if there is an ongoing process of invoice and payment reconciliation between the insurer or the healthcare service organization and the Puerto Rico Medical Services Administration (ASEM).

The contract shall include a clause stating that said documents have been attached to the contract or that the party has been granted a reasonable time to obtain them.

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Section 2.- A new subsection (h) is hereby added to Section 2 of Article IX of Act No. 72-1993, as amended, to read as follows:

“All direct contracting procedures with healthcare service providers shall be carried out pursuant to the provisions of this Section. Every medical group or provider wishing to contract directly, pursuant to the provisions of Act No. 105 of July 19, 2002, shall submit a written application that shall include the following:

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...

(h) A certification on the absence of any outstanding debt or on the existence of a payment plan with the Puerto Rico Medical Services Administration (ASEM) attesting to the fact that the plan is being complied with and is not past due. The date of issue of said certification shall not exceed sixty (60) days prior to the proposed effectiveness of the contract to be awarded by the Puerto Rico Health Insurance Administration (ASES). The applicability of this subsection shall be contingent upon the Puerto Rico Medical Services Administration’s certification of the corresponding debt. Furthermore, the contracting healthcare service provider or insurer shall not be eligible for contracting if it has any debt that has been over sixty (60) days past due, as certified by the Puerto Rico Medical Services Administration (ASEM); additionally, it shall satisfy any other requirement set forth in Act No. 237-2004. For purposes of this subsection, debt shall be understood as any contractual obligation that entails the payment of a certain and

specific amount of money that has become due and payable by the insurer or healthcare service provider.

The foregoing notwithstanding, an obligation shall not be deemed to be an overdue debt if there is an ongoing process of invoice and payment reconciliation between the insurer or the healthcare service organization and the Puerto Rico Medical Services Administration (ASEM).

Section 3.- This Act shall take effect immediately after its approval. However, government instrumentalities involved in the implementation of this Act shall have sixty (60) days as of the approval thereof to establish or amend regulations as are necessary for the implementation of this Act.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 65-2013 (H. B. 813)** of the **1<sup>st</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to add a paragraph (5) to subsection (A) of Section 5 of Act No. 237-2004, and amend Article IX, Section 2 of Act No. 72-1993, as amended, by adding a subsection (h) in order to provide that any insurer or healthcare service provider wishing to contract with any instrumentality, entity, or agency of the Commonwealth of Puerto Rico, establish exceptions[sic]; shall certify to have no outstanding debts with the Puerto Rico Medical Services Administration (ASEM, Spanish acronym); and for other purposes.

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

In San Juan, Puerto Rico, on this 16<sup>th</sup> day of November, 2016.

Juan Luis Martínez Martínez  
Director