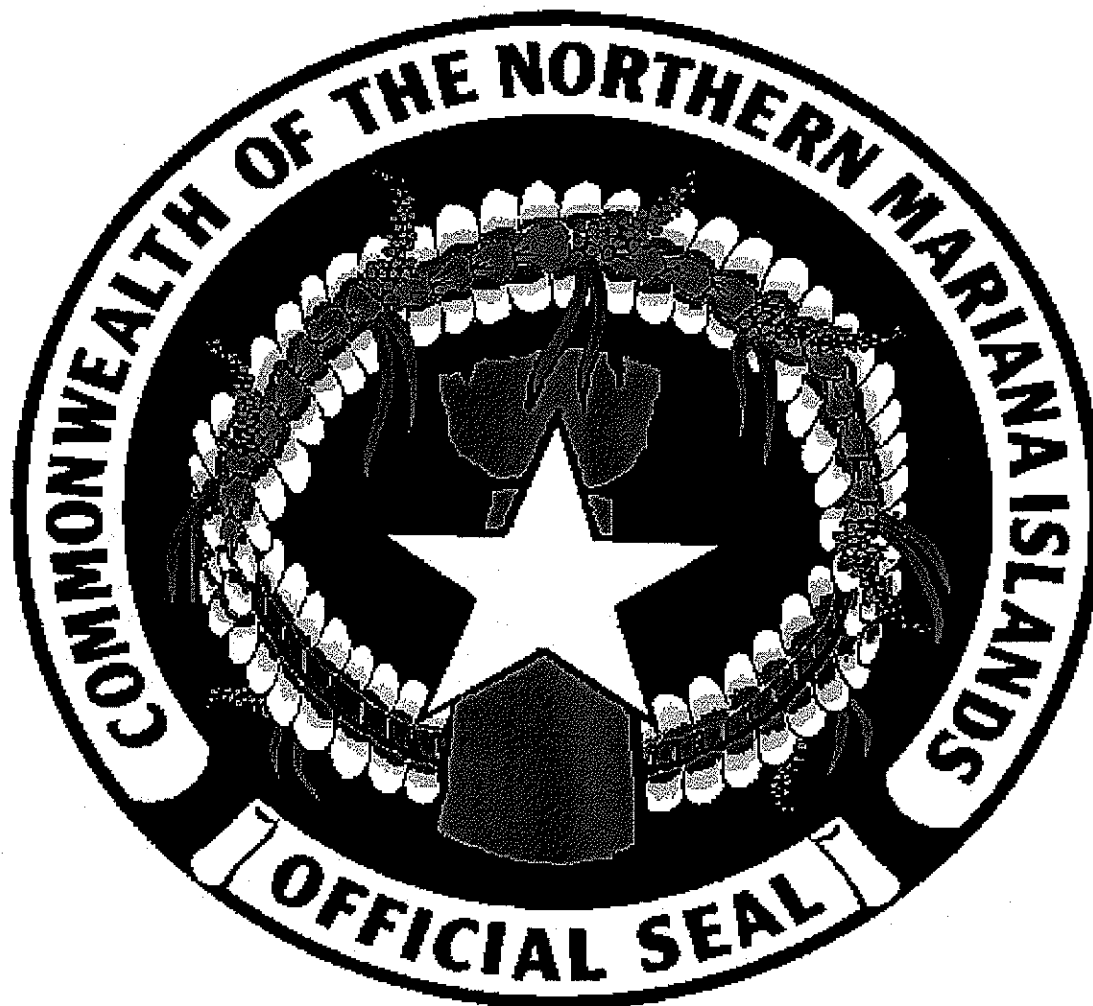


**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



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**COMMONWEALTH REGISTER**

**VOLUME 35**

**NUMBER 12**

**DECEMBER 28, 2013**

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# COMMONWEALTH REGISTER

VOLUME 35  
NUMBER 12

December 28, 2013

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UNITED STATES  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
**COUNCIL on DEVELOPMENTAL DISABILITIES**  
Developmental Disabilities Basic State Grant Program  
Bldg. No. 1312, Capitol Hill • P.O. Box 502565, Saipan, MP 96950-2565  
Tel.: (670) 664-7000 • Fax: (670) 664-7030 • Email: info@cnmicdd.org  
Website: www.cnmicdd.org



**NOTICE OF PROPOSED REGULATIONS FOR THE COMMONWEALTH RESPITE  
SERVICE PROGRAM**

**INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS:** The CNMI Council on Developmental Disabilities intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulations would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC §9105(b)).

**AUTHORITY:** The Council on Developmental Disabilities has statutory power to promulgate and effect rules and regulations for the operation and administration of the Commonwealth Respite Services Program pursuant to P.L. 14-36, 3 CMC § 2435.

**THE TERMS AND SUBSTANCE:** Public Law 14-36 established the Commonwealth Respite Services Program to develop and encourage coordination of respite services in the CNMI and to work with community-based organizations in the establishment of community lifespan respite service programs. 3 CMC § 2432. Public Law 14-36 designates the Council on Developmental Disabilities as the administering authority for the Commonwealth Respite Services Program, with the duty to establish rules and regulations for the effective administration of the program. 3 CMC § 2433; 3 CMC § 2435. Thus, the Council on Developmental Disabilities submits the following proposed regulations to establish the criteria, procedures and guidelines for the operation of the Commonwealth Respite Services Program.

**THE SUBJECTS AND ISSUES INVOLVED:** These are the proposed regulations for the operation and administration of the Commonwealth Respite Services Program.


**DIRECTIONS FOR FILING AND PUBLICATION:** The Council on Developmental Disabilities is soliciting comments regarding these proposed regulations which must be received by the Council within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed regulations by contacting the Council at 664-7000, through email at info@cnmicdd.org, or by visiting the office located at Bldg. 1312, Capitol Hill, Saipan. Written comments on these amendments should be dropped off at the Council's office or sent by mail to the Council on Developmental Disabilities, P.O. Box 502565, Saipan, MP 96950, or by email info@cnmicdd.org.

Submitted By:

  
\_\_\_\_\_  
Pamela C. Sablan  
Executive Director  
CNMI Council on Developmental Disabilities


11/22/13  
Date

Received By:

  
\_\_\_\_\_  
Esther S. Fleming  
Special Assistant for Administration


12/26/13  
Date

Filed and Recorded By:

  
\_\_\_\_\_  
Esther SN. Nesbitt  
Commonwealth Register

12-26-2013  
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

  
\_\_\_\_\_  
JOEY P. SAN NICOLAS  
Attorney General

12/26/13  
Date

**COUNCIL on DEVELOPMENTAL DISABILITIES**

Developmental Disabilities Basic State Grant Program

Bldg. No. 1312, Capitol Hill • P.O. Box 502565, Saipan, MP 96950-2565

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Website: [www.cnmicdd.org](http://www.cnmicdd.org)



**ARONGORONG REEL POMMWOL ALLÉGH SÁNGI COMMONWEALTH  
RESPITE SERVICE PROGRAM**

**MÁNGEMÁNGIL MWÓGHUT YEEL BWE EBWE ADAPTÁALI POMMWOL ALLÉGH KKAL:**

CNMI Council on Developmental Disabilities re mengemengil rebwe adaptáali bwe ebwe llégh lló bwe allégh mille e appaschlong bwe pommwol atiwiligh, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC §9104(a). Allégh kka e bwe bwunguló llól 10 ráll mwiril yaal llégh ló sángi 1 CMC §§ 9102 me 9104(a) me ngáre (b) (1 CMC §9105 (b)).

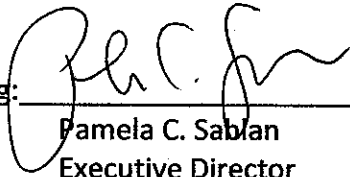
**BWÁNGIL:** Council on Developmental Disabilities nge eyoor bwángil ebwe attootowow me ghitipwotchuw allégh kkaal bwelle reel mwóghutughutúl me Bwulasiyol Commonwealth Respite Services Programs uruwowul P.L. 14-36, 3 CMC § 2435.

**KKAPASAL ME AWEWEL:** Public Law 14-36 e fféer ngáli Commonwealth Respite Services Program bwe ebwe fféer me ebwe abwura mwóghutughutúl respite services program llól CNMI me rebwe angaang fengál me community-based organization rel igha rebwe bwúlúútá mille Community Lifespan Respite Services Programs. 3 CMC § 2432. Public Law 14-36 e affili Council on Developmental Disabilities bwe iir schóól Lemelemil Commonwealth Respite Services Progra, rel yaar angaang bwe rebwe fféeri ngáli allégh me atiwiligh kka ebwe ffat lemelemil Progróoma. 3 CMC § 2433; 3 CMC §2435. Council on Developmental Disabilities e isiislong pomwol atiwiligh rel ebwe fféer ngáli kkapasal, efaisúl, me afalafal rel mwóghutughutúl Commonwealth Respite Services Program.

**KKAPASAL ME ÓUTOL:** Ebwe fféer ngáli pomwol allégh rel angaang me lemelemil Commonwealth Respite Services Program.

**AFALA REEL AMWELIL ME ARONGOWOWUL:** Council on Developmental Disabilities e tittingóór bwe ebwe isiislong angiingi rel pomwol atiwiligh kka ebwe atoottolong rel Council llól 30 ráll sángi ráll ie e akkatéewowul me Commonwealth Register. Ngáliir toulap ngáre re muschel emmwel rebwe tingóór copies rel pomwol atiwiligh nge rebwe faffaangi Council rel 664-7000 , ngáre rebwe email- li [info@cnmicdd.org](mailto:info@cnmicdd.org), ngáre igha ubwe ló rel bwulasiyo iye ello Bldg.1312, Capitol Hill Saipan. Ólongal iischil angiingi rel ameenda kkaal nge rebwe afanga long rel Bwulasiyol Council ngáre afanga ló rel Council on Developmental Disabilities, P.O. Box 502565, Saipan MP 96950, ngáre email-li ló rel [info@cnmicdd.org](mailto:info@cnmicdd.org).

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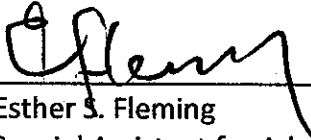


Pamela C. Sablan  
Executive Director  
CNMI Council on Developmental Disabilities

12/11/13

Ráll

Mwir Sáangi:



Esther S. Fleming  
Special Assistant for Administration

12/26/13

Ráll

Amwel Sáangi:

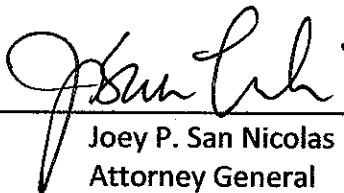


Esther SN. Nesbitt  
Commonwealth Register

12-26-2013

Ráll

Sáangi 1 CMC § 2153(e) Allégh kkaal a lléghló sáangi AG bwe e fil reel fféerúl me 1 CMC §9104(a) (3) (mwiir sáangi AG) Pomwol atiwiligh kkaal a appaaschlong a takkal amwuri fiischiy, me angúungú ló fféerúl me legal sufficiency sáangi CNMI Attorney General me ebwele akkatéewoow, 1 CMC §2153(f) (Arongowowul allégh me atiwiligh kkaal).



Joey P. San Nicolas  
Attorney General

12/26/13

Ráll

UNITED STATES  
Commonwealth gi Sangkattan na Islas Marianas Siha  
**COUNCIL on DEVELOPMENTAL DISABILITIES**

Developmental Disabilities Basic State Grant Program  
Bldg. No. 1312, Capitol Hill • P.O. Box 502565, Saipan, MP 96950-2565  
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**NUTISIA GI MANMAPROPONI NA REGULASION SIHA PARA I PRUGRĀMAN COMMONWEALTH  
RESPITE NA SITBISIU**

**I AKSION NI MA'INTENSIONA PARA U MA'ADĀPTA ESTI I MANMAPROPONI NA REGULASION SIHA:** I CNMI Council on Developmental Disabilities ha intensiona para adĀpta kumu petmanienti na regulasion siha ni mañechettun i Manmaproponi na Regulasion siha, sigun gi manera siha gi Āktun Administrative Procedure, 1 CMC § 9104(a). I regulasion siha para u ifektibu gi halum i dies(10) dihas dispues di compliance i 1 CMC §§ 9102 yan i 9104(a) pat (b) ( 1 CMC § 9105(b)).

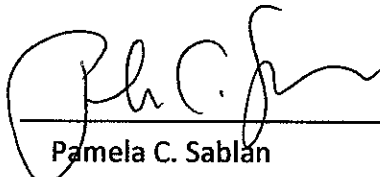
**ĀturidĀt:** I Council on Developmental Disabilities gai fuetsa para u cho'gui yan hiniyung areklamentu yan regulasion siha para i operasion yan i atministrasion PrugrĀman Commonwealth Respite na Sitbisiu siha sigun gi Lai Pupbliku 14-36, 3 CMC §2435.

**I TEMA YAN SUSTĀNSIAN PALĀBRA SIHA:** I Lai Pupbliku 14-36 ma'estapblesi i PrugrĀman Commonwealth Respite na Sitbisiu siha para u develop yan encourage coordination gi sitbisiun respite gi halum CNMI yan para u facho'chu' yan i community-based organizations gi halum prugrĀman inestapblesin komunidĀt lifespan na sitbisiu siha. 3 CMC § 2432. I Lai Pupbliku 14-36 ha disikna i Council on Developmental Disabilities kumu guiya i administering authority para i PrugrĀman Commonwealth Respite na Sitbisiu siha, yan che'cho' ni para u estapblesi areklamentu yan regulasion siha ni para u ifektibu i prugrĀman atministrasion. 3 CMC § 2433; 3 CMC § 2435. Pues, i Council on Developmental Disabilities ha na'hĀlum i sigienti na regulasion siha ni manmaproponi para u ma'estapblesi criteria, manera yan giniha siha para i operasion gi PrugrĀman Commonwealth Respite na Sitbisiu siha.

**I SUHETU YAN ASUNTU NI MANTINEKKA:** Esti i manmaproponi na regulasion siha para i operasion yan atministrasion gi PrugrĀman Commonwealth Respite na Sitbisiu siha.

**DIREKSION SIHA PARA U MAPO'LU YAN PUBLIKASION:** I Council on Developmental Disabilities mamamaisin upiñon put esti i manmaproponi na regulasion siha ni debi na u marisibi ni Council gi halum trenta(30) dihas gi primet publikasion esti na nutisia gi halum Rehistran Commonwealth. HĀyi manintirisĀo na petsona siña manmanggĀogĀo kopia siha gi manmaproponi na regulation siha gi para un Āgang i Council gi 664-7000, gi kontra i email gi [info@cnmicdd.org](mailto:info@cnmicdd.org), pat bisita guatu i ufisina ni gaigi gi Bldg. 1312, Capitol Hill, Saipan. Tinigi' upiñon gi esti na amendasion siha debi na u machuli' guatu gi Council na ufisina pat na'hĀnĀo gi mail para i Council on Developmental Disabilities, P.O. Box 502565, Saipan, MP 96950, pat email gi [info@cnmicdd.org](mailto:info@cnmicdd.org).

Nina'hålum as:

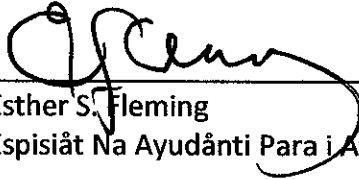


Pamela C. Sablan  
Direktot Eksakatibu  
CNMI Council on Developmental Disabilities

12/11/13

Fetcha

Rinisibi as:



Esther S. Fleming  
Espisiât Na Ayudânti Para i Administrasion Gubietnu

12/26/13

Fetcha

Pine'lu yan Ninota as:



Esther Sn. Nesbitt  
Rehistran Commonwealth

12-26-2013

Fetcha

Sigun i 1 CMC § 2153(e) (Inapruuban Abugâdu Henerât gi regulasion siha na para u macho'gui kumu para fotma) yan 1 CMC § 9104(a) (3) (hentan inapruuban Abugâdu Henerât) i maproponi na regulasion siha ni mañechettun guini gi manmaribisa yan ma'aprueba kumu fotma yan ligât sufisienti ginin i CNMI Abugâdu Henerât yan debi na u mapublika, (1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).



Joey P. San Nicolas  
Abugâdu Henerât

12/26/13

Fetcha



**TITLE 75 OFFICE OF THE GOVERNOR**

**CHAPTER 75-50 COMMONWEALTH RESPITE SERVICE PROGRAM**

**ADMINISTRATIVE RULES AND REGULATIONS**

Chapter Authority: 3 CMC § 2431.

**Part 001 - General Provisions**

**§ 75-50-001 AUTHORITY**

Under and by virtue of the authority vested in the CNMI Council on Developmental Disabilities ("Council") pursuant to 3 CMC § 2435 and Section 6 of Public Law 14-36, the Council hereby promulgates the rules and regulations in this chapter.

**§ 75-50-005 PURPOSE**

The Council promulgates the rules and regulations in this chapter to effectively administer the Commonwealth Respite Service Program ("CRSP") pursuant to Public Law 14-36 in its role as an advisory body to the CBO..

**§ 75-50-010 COMMUNITY RESPITE SERVICES PROGRAM**

The Council shall be responsible for the development of the CRSP in order to provide the CBO guidance in the regulation, management and supervision of respite care. It shall collaborate with other government agencies, for profit and non-profit organizations, in further developing the CRSP in order to meet the community's needs.

**§ 75-50-015 DEFINITIONS**

Applicability. The words and terms as used in this chapter shall have the meanings indicated and shall include the plural unless the context clearly indicates otherwise. The definitions herein provided shall supplement the public laws referenced in § 75-50-001.

(a) "Activities of daily living" means the tasks performed routinely by a person to maintain physical functioning and personal care, including transferring, moving about, dressing, grooming, toileting, and eating.

(b) "Caregiver" means an individual providing ongoing care to one who is unable to care for him or herself.

(c) "CBO" means the Community Based Organization who shall be responsible for regulating, managing and supervising the delivery of respite care services to the community.

- (d) "Client" means a dependent person at risk of being institutionalized and presently unable to live independently.
- (e) "CNMI Respite Care State Plan" means the development of and the administration of a comprehensive and coordinated respite care services for qualified clients in the CNMI, in accordance with all the requirements of Public Law 14-36.
- (f) "Community respite services program" (CRSP) means a program that:
- (1) is operated by a community based private non-profit or for-profit agency or a public agency that provides respite services;
  - (2) receives funding through the Commonwealth Respite Services Program established under Section 3 of this Act;
  - (3) serves an area in one or more of the three senatorial districts;
  - (4) acts as a single local source for respite services information and referral; and
  - (5) facilitates access to local respite services.
- (g) "Council" means the CNMI Council on Developmental Disabilities.
- (h) "Eligible recipients" means the primary caregivers of target dependents. The determination of eligibility for services is based on the needs of the family, with special attention given to the needs of the individual receiving care and the primary caregiver.
- (i) "Economic resources" means the client's own resources together with other types of assistance, financial or otherwise, which are available to a client and would help maintain the client in the client's own home.
- (j) "Federal Poverty Income Guidelines" or "FPIG" means the financial amount set annually by the U.S. Department of Health and Human Services ("HHS") in the Federal Register in order to simplify the poverty thresholds to be used in administrative setting such as to determine financial eligibility for certain federal programs.
- (k) "Gross Income" means any benefit which is received by the client as a result of current or past labor or services (before deductions), business activities which generates recurring income, or as a contribution from persons, organizations, or assistance agencies such as wages and salary.
- (l) "Health status" means the client's medical condition based on a diagnosis of the client's existing illnesses or disabilities, the medical care and medications needed in response to the diagnosis, and an assessment of the client's ability to perform daily tasks.

(m) "Home" means the client's residence which may not include a nursing facility, hospital, assisted living facility, penal institution, detention center, school, intermediate care facility for persons with mental retardation, or an institution that treats individuals who have mental diseases.

(n) "Home environment" means the client's dwelling unit, building, or house and its furnishings and the neighborhood in which the client resides.

(o) "Non-categorical care" means care without regard to age, income, ethnicity, race, nationality, special need or situation, or other status of the individual receiving care.

(p) "Needs assessment and evaluation" means a procedure for evaluating a client for respite care.

(q) "Paid Provider" means an individual or agency who meets the requirements to be a provider and who will provide services for a fee.

(r) "Personal adjustment" means the indicators of an individual's mood, judgment, and memory which are essential to remaining independent.

(s) "Primary caregiver" means an individual who provides a client with continuous at-home care at no cost.

(t) "Provider" means an individual or agency selected by a family or caregiver to provide respite services to an individual with special needs.

(u) "Respite care" means temporary relief for primary caregivers to prevent individual and family breakdown, institutionalization of the person being cared for, or abuse by the primary caregiver as a result of stress from giving continuous support and care to a dependent person.

(v) "Respite services" include but are not limited to:

(1) recruiting and screening of paid and unpaid respite care providers.

(2) identifying local training resources and organizing training opportunities for respite care providers.

(3) matching families and caregivers with providers and other types of respite care.

(4) providing vouchers, payment, subsidies, loans, grants, and linking families and caregivers with payment resources.

- (5) identifying, coordinating, and developing community resources for respite services.
- (6) quality assurance and evaluation.
- (7) assisting families and caregivers to identify respite care needs and resources.
- (8) assisting with the development of existing or needed facilities for respite care services.

(w) "Social resources" means support or assistance available to a client from family, friends, neighbors, community organizations such as churches, civic groups, or senior centers, or other agencies providing services to residents of the community.

(x) "Target dependents" means children with developmental disabilities residing at home, or adults with developmental disabilities who reside with aging parents, children, and older individuals who are medically fragile, have developmental disabilities, dementia, and other conditions and who reside at home of primary caregiver such as adult children, grandchildren, or other care-giving relative.

(y) "Unpaid Provider" means an individual or agency who meets the requirements to be a provider and who will provide services without a fee.

**§ 75-50-020 CLIENTS**

**§ 75-50-020.01 Persons eligible for respite care**

Depending on availability of funds, A client may be eligible for respite care when the following criterias are met:

- (a) The client's needs assessment and evaluation plan indicates a need for respite care; OR
- (b) **Income:** The client has a monthly Gross Income below the FPIG for a family of the same size; AND
- (c) **Residency:** The client must be living in the CNMI with the intention of making the CNMI his/her home permanently. Acceptable documentation includes, but is not limited to, utility payment receipts, house rental/mortgage receipts, etc.; AND
- (d) **Citizenship:** Only the citizenship and immigration status of the client is required for eligibility purposes. The client must be a U.S. citizen or a qualified alien, as defined in Personal Responsibility Work Opportunity Act (PRWORA), to be eligible for respite care services. Acceptable documentation includes, but is not limited to, birth certificate or passport; AND

(e) The individual has a primary caregiver.

**§ 75-50-020.02 Income Guideline for Qualification**

In order to qualify for respite care, an applicant, primary care provider, family member or authorized person may fill out an application for the potential client. The CBO shall use the FPIG for a family of the same size as the guideline for qualification. However, an applicant who is a recipient of any CNMI or federal assistance program automatically qualifies for respite care.

The client's monthly Gross Income shall be used to determine an applicant's eligibility.

(a) **Exclusions from Gross Income.** Excluded from the computation of gross income are the following:

1. Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self employed income;
2. Withdrawals of bank deposits;
3. Loans;
4. Gifts, including in-kind gifts such as free room and board, when the gift is not a form of compensation in lieu of wages or salary;
5. Monies received in the form of a nonrecurring lump sum payment including, but not limited to, the following:
  - i. Income tax refunds, rebates, credits;
  - ii. Retroactive lump sum social security, SSI, or unemployment compensation benefits;
  - iii. Retroactive annual adjustment payments in the veteran administration's (VA) disability pensions;
  - iv. Lump sum inheritance or insurance payments;
6. Refunds of security deposits on rental property or utilities;
7. Earnings of minor children who are members of the household and are students at least half-time shall be excluded even during temporary interruptions in school attendance due to semester or vacation breaks, provided the minors' enrollment will resume following the break;

8. Capital gains
9. Loans, grants, and scholarships obtained and used under conditions that prohibit use for current living expenses;
10. Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
11. Home produce utilized for home consumption;
12. The value of coupon allotment under the Food Stamp Act of 1977, as amended.
13. The value of USDA donated or surplus foods;
14. The value of supplemental food assistance under the Child Nutrition Act of 1966 (42 U.S.C. § 1771-1789) and the special food service program for children under the National School Lunch Act, as amended;
15. Benefits received from the special supplemental food program for women, infants, and children (WIC) (Pub. L. No.92-443);
16. Allowances and payments to participants in programs, other than on-the-job training, under the Work Investment Act (WIA) of 1998 (20 U.S.C. § 9201);
17. The earned income of individuals participating in on-the-job training program under the Job Training Partnership Act (JTPA) of 1982 (25 U.S.C. § 640d-640d-28) who are between 18 and 19 years of age and under the parental control of another household member;
18. Earned income tax credit (EITC) payments received either as a lump sum or recurring payments under section 3507 of the Internal Revenue Code of 1986;
19. Financial assistance provided by a program funded in whole or in part under title IV of the Higher Education Act in accordance with Pub. L. No.99-498
20. Payments or allowances under any federal or local laws for the purpose of energy assistance;
21. Assistance payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency

(FEMA), and other comparable disaster assistance provided by any state or local government agency, and disaster assistance organizations;

22. Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling liability claims concerning the chemical Agent Orange (Pub. L. No.101-201);
23. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4636);
24. Payments received under the Radiation Exposure Compensation Act (Pub. L. No. 101-426) to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;
25. Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under title V of the Older American Act of 1965 (Pub. L. No.100-175);
26. Payments to volunteers derived from the volunteer's participation in the following program authorized by the Domestic Volunteer Service Act of 1973 (42 U.S.C. §§ 5011, 4951-4958):
  - i. Foster grandparent program;
  - ii. Senior companion program; and
  - iii. Volunteers in service to America (VISTA) and AmeriCorps program.
27. Military re-enlistment bonus;
28. Any other payments made in accordance with territory and federal laws that preclude the payments from being counted as income.

**§ 75-50-020.03 Payment for Respite Care**

**§ 75-50-020.031 Method of computing respite care payment**

- (a) The Council shall establish the hourly rate to be paid for respite care.
- (b) The respite care provider shall provide verification of the number of hours of respite care provided to the client, certified by the client or the client's primary care provider to the CBO.
- (c) The CBO will compute the monthly projected cost of the respite care based on:

1. Hours of respite care provided;
  2. The client or the family's share of the cost of respite care in accordance with the Sliding Fee Scale as set forth in the current state plan.
- (d) The projected respite care payment rate shall be calculated by:
1. The hours of respite care provided to the client;
  2. The respite care amount to be paid each month of eligibility shall be the respite care hourly rate, times the number of hours of respite care provided, minus the co- payment amount, if any (hourly rate x respite care hours provided – co-payment amount = payment to respite care provider).
- (e) Eligibility for respite care subsidized payment shall be suspended for any month the total monthly income exceeds the income criteria for the size of the family as adopted by the Council.

**§ 75-50-020.032 Respite Care Payments**

- (a) The payment rate shall be established by the current State Plan.
- (b) Respite care payments shall be an expense that is reimbursed to the respite care provider.
- (c) The client or primary care provider's co-payment shall be established by the current Sliding Fee Scale as set forth in the current State Plan.
- (d) The CBO shall issue a Payment Invoice and an attendance form to respite care providers who must then secure the client or their primary care provider's signature to be submitted for a reimbursable payment for respite care services rendered the previous month. The attendance form must show the number of hours the client is in the care of the service provider. Failure to submit a completed and signed payment invoice and/or an attendance form shall result in no payment.
- (e) A completed and signed payment invoice and/or attendance form must be received by the CBO within the first three working days of the month. Invoices received after the third (3rd) working day of the month will be considered late and will not be processed until the following month.



- (f) The client or the primary care provider shall pay their portion of the respite care cost.
- (g) All clients or primary care providers will pay their co-payments directly to the CNMI Treasury.
- (h) The client or primary care provider shall be responsible for any respite care costs in excess of the maximum respite care rates as set forth in the current state plan.

**§ 75-50-020.04 Priority**

**§ 75-50-020.04 Priority for Services**

Priority for respite care services is determined in the following order:

1. Clients or primary care providers who are classified as no to very low income or below the FPIG level.
2. Clients or primary care providers who are classified as no to very low income or below the FPIG level with special needs children.
3. Clients or primary care providers who are homeless.

**§ 75-50-020.041 Priority of Applications**

If requests for respite care services cannot be honored because of the unavailability of services, applicants whose demonstrated need includes immediate danger of leaving their home or family shall be the first to receive respite care services regardless of the date of application.

All other eligible applicants for respite care who cannot receive service because of its unavailability shall be placed on a waiting list in order of date of application for services. A change in an applicant's condition may warrant a change in priority.

**§ 75-50-020.05 Respite Care Settings**

Respite care services may be provided in the following settings:

- (1) In the client's home as long as the primary caregiver lives in the client's home;
- (2) In the primary caregiver's home;
- (3) In the respite care provider's home; or
- (4) With prior approval from the CBO, in another type of community setting such as child or adult day care.

## **§ 75-50-020.06 Clients with Diverse Families**

Family diversity is reflected in each family's unique characteristics such as race, ethnicity, language, family composition, socio-economic status, and religious beliefs. It is important that respite programs and providers respect these characteristics.

(1) Each family's cultural, racial, and linguistic identities are acknowledged, respected and supported.

(2) Each family's spiritual beliefs are acknowledged and respected.

(3) Diversity in family composition is acknowledged and supported in the provision of respite services (e.g. grandfamilies; foster and adoptive families; single parent families; lesbian, gay, bisexual and transgender families (LGBT)).

(4) Every effort is made to incorporate the family's cultural and linguistic needs into respite services.

*Source:* National Respite Guidelines, October 2011

## **§ 75-50-025 TYPES OF PROVIDERS**

(1) **Paid providers** are those who will provide services for a fee to be paid by the CBO.

(2) **Unpaid providers** are those who provide services whose fees will be paid by someone other than the CBO.

### **§ 75-50-025.01 Provider Qualifications**

(1) The CBO shall screen potential provider applicants as follows:

(a) conduct provider interviews, contact references, and require criminal background checks.

(b) assess provider knowledge about human development and developmentally appropriate activities.

(c) ensure that providers have work or volunteer experience working with the population they are serving (i.e., family caregivers, children with disabilities, adults with dementia, families in crisis).

(d) ensure that providers are physically and emotionally able to provide the care (e.g., by assessing work/volunteer experience, asking specific open-ended interview questions, and checking work and character references).

### **§ 75-50-025.02 Recruiting Providers**

(1) The CBO shall collaborate with other agencies, local or federal, for profit or non-profit organizations to recruit and screen providers. If providers have been screened by an organization other than the CBO, the providers must, at a minimum, have been qualified with established criteria by the other organization.

(2) Recruitment campaigns for providers are carefully planned to encourage potential providers to respond to the need for respite.

(3) Family caregivers are encouraged to identify their own respite providers whenever appropriate from formal or informal supports.

(4) Efforts will be made to recruit respite providers from various ethnic, racial, linguistic, and cultural groups, as well as from socially diverse families (e.g., grandfamilies; foster and adoptive families; single parent families; lesbian, gay, bisexual and transgender families (LGBT)) in order to provide a diverse workforce.

(5) The CBO shall recruit providers who can effectively address specific family and care recipient needs (e.g., fluent in family's first language, trained to work with individuals with dementia).

(6) The CBO shall recruit respite providers representing both male and female role models for children and youth.

(7) The CBO shall recruit respite providers who live in areas easily accessible to families needing services, or plan to address resulting transportation issues if this is not possible.

*Source: National Respite Guidelines, October 2011*

### **§ 75-50-025.03 Hiring and Retaining Providers**

(1) The CBO will develop job descriptions for all paid and volunteer respite positions, including the knowledge and skills needed to perform the designated job.

(2) The CBO will require that respite providers and volunteers submit a job application, provide references, and participate in an interview.

(3) The CBO will conduct criminal background checks.

(4) The CBO will provide to all respite providers a contract outlining provider and/or volunteer roles and responsibilities.

(5) Once hired, respite providers and volunteers will be given a general program orientation and participate in pertinent training activities.

(6) The CBO will provide ongoing support and supervision, including evaluating and providing feedback on the performance of each provider and volunteer.

*Source: National Respite Guidelines, October 2011*

#### **§ 75-50-025.04 Volunteer Providers**

(1) The CBO will use volunteers to provide a number of roles including clerical, fund raising, grounds' improvements, direct services and any other role if qualified.

(2) The CBO will dedicate administrative staff time to careful recruitment, training, retention and supervision of volunteers.

(3) Volunteers are recruited from the general community targeting potential volunteers through entities such as senior organizations, colleges and universities, corporate volunteer programs, service organizations, and faith based communities.

(4) The CBO shall coordinate with any institution of higher learning, such as the Northern Marianas College ("NMC"), or trade institute to encourage a volunteer program to be implemented for classroom credit for all student volunteers. If possible, the CBO shall encourage NMC to implement an internship and/or apprentice program for NMC students.

(5) If volunteers are providing direct services, the CBO will plan for a comprehensive orientation, training, ongoing support and supervision, as well as specific volunteer job roles.

(6) Volunteers are carefully matched with respite program needs. For example, more complex medical needs among children or adults with disabilities, or older care recipients with later stages dementia, may require more highly trained or more closely supervised volunteers to provide respite.

(7) The CBO will plan for ways they can recognize volunteers for the services they perform (e.g., recognition events, participation in staff training).

*Source: National Respite Guidelines, October 2011*

#### **§ 75-50-025.05 Provider Relationship With Client Prohibited**

A client's spouse, parent, or child may not be a respite care provider. Another family member may be a provider if the family member is neither living with the client nor receiving compensation as the client's caregiver.

**§ 75-50-030**

**FAMILY CAREGIVER**

Family caregivers are those persons, whether related to the client or not, who provide care to the client.

**§ 75-50-030.01 Family Caregiver Involvement**

Family caregiver involvement encompasses the inclusion of family caregivers in all aspects of quality, accessible respite service delivery. It is important to clearly define family roles so that they can be effectively involved in activities such as surveying caregiver needs, planning respite services, and program evaluation. However, no information deemed confidential by local or federal law shall be disseminated about clients.

(1) The CBO shall provide information about respite services and options to physicians, health care, social work, disability, and aging service providers to facilitate family caregivers having access to respite early in the caregiving experience.

(2) The CBO shall assist family caregivers in identifying their particular need(s) for services through timely, volunteer caregiver assessments or through informal discussion to ensure that they gain the greatest benefits from respite.

(3) Family caregivers are involved in service design and implementation.

(4) The CBO shall solicit family caregiver input regarding service delivery on an ongoing basis (e.g., needs assessments, service satisfaction surveys, advisory boards).

(5) The CBO and family caregivers shall work together to clearly define family roles and responsibilities within the services being provided.

(6) The CBO shall develop respite care services so that they are family-centered (take into consideration the needs of all family members).

(7) The CBO shall build on the strengths and resources of families.

(8) The CBO shall plan respite care services so that it can be available early in the caregiving experience and in a frequently and therapeutically sufficient dosage to positively affect the family caregiver's health and well-being.

(9) Family caregivers receive appropriate emotional support and reassurance about having their loved one in care.

(10) Family caregiver preferences for service entry, location, hours, activities and delivery, are respected and accommodated, as appropriate.

(11) Families have access to their loved ones while they are in care.

(12) Family caregivers are encouraged to value their respite time and engage in respite activities that will maximize their benefits and outcomes.

*Source: National Respite Guidelines, October 2011*

**§ 75-50-035            RESPITE SERVICE ADMINISTRATION**

The CBO shall administer the respite program with the advise and supervision of the Council. These rules and regulations shall be construed liberally in order for the CBO to provide respite care services.

**§ 75-50-035.01        Plan for Respite Care Services**

The CBO in cooperation with the client, the primary caregiver, and the respite care provider shall develop a plan for respite care services. The plan shall be based on the client's needs assessment and evaluation. The CBO shall retain a copy of the plan in the client's file. The plan shall be reviewed every six months. The plan shall contain the following information;

- (1) The total number of respite care hours approved in each quarter;
- (2) The scheduled use of hours;
- (3) A description of the approved tasks or duties of the respite care provider; and
- (4) The cost-sharing amount determined by the sliding fee scale as adopted by the Council.

**§ 75-50-035.02        Covered Services**

Covered services may include any of the following:

- (1) Companionship;
- (2) Involvement in the client's activities of daily living;
- (3) Recreational activities;
- (4) Meal preparation;
- (5) Transportation;

(6) Light housekeeping and personal hygiene tasks only when care is required over several days and as long as the services are essential to the client's health and comfort in the home; and

(7) Additional tasks or duties specified in the client's plan for respite care service.

**§ 75-50-035.03 Services Not Covered**

Services which are not covered under respite care includes skilled nursing services, however the administration of prescribed and over the counter medications shall be followed according to the client's primary medical provider.

**§ 75-50-035.04 Needs Assessment and Evaluation for Respite Care**

The CBO shall assess the respite care service needs of the client with the goal of improving or stabilizing the client's condition thereby lessening or eliminating the client's dependence on the respite care services. The CBO shall reassess the client's condition and the continued need for services at least once every six months. In determining continuing need, the CBO shall consider the client's ability to complete tasks and whether other resources are available to provide the needed services. The needs assessment and evaluation shall also consider information provided by the client in the following areas:

- (1) Social resources;
- (2) Home environment;
- (3) Health status;
- (4) Activities of daily living;
- (5) Personal adjustment; and
- (6) Economic resources.

**§ 75-50-035.05 Limit on Number of Service Hours**

An individual qualifying for services under this chapter may not receive more than 210 hours of respite care services a quarter.

**§ 75-50-035.06 Supervision**

Supervision is a means of overseeing one's work, offering guidance and verbal and emotional support to those who are providing care either on a paid or volunteer basis. Such teaching and debriefing opportunities enhance the quality of the care being provided.

(1) All respite providers, whether paid or volunteer, receive ongoing supervision and support.

(2) An administrative staff person is assigned the duty of maintaining consistent and ongoing contact with respite providers to answer questions, listen to their concerns, and share in the joys of providing respite services.

(3) Regular staff meetings and in-service training are available to all respite providers.

(4) In case of emergencies while an individual is in care, respite providers have access to an administrative staff person at all times.

(5) Whether performing their work in the company of co-workers or in the isolation of their home or the family's home, respite providers have access to peer support to share concerns and receive support.

(6) Respite providers and respite programs exceed state licensing requirements, as needed, in determining the ratio of caregivers to providers. Some individuals in care, especially young children or the elderly with dementia, frequently have additional needs for assistance and supervision. Respite providers can more readily respond to those needs if they have only a few individuals in their care.

(7) Respite programs determine the provider/care recipient ratio by assessing the individualized needs of each care recipient. In practice this will mean that some care will be appropriately provided in small groups, and, in some instances, care will be provided on an individual basis.

(8) Documentation and reporting procedures are in place to reflect the respite provider service location if it is different from the immediate supervisor's location.

*Source: National Respite Guidelines, October 2011*

#### **§ 75-50-035.07 Training**

Once respite programs and volunteers have been recruited and hired, it is essential that they receive pre-service training as well as regular in-service training on topics relevant to their work. Training activities can be designed to include an initial orientation, group training, individualized training on specific care recipients' needs, and periodic in-service training to enhance provider skills. Ideally, more than one method of training is offered to address various provider learning styles and needs.

(1) Family caregivers and adult care recipients are involved in determining training content and in supervising or assisting in the training of providers, as appropriate.



Training can involve formal group presentations, as well as direct training of respite providers by family caregivers and/or adult care recipients in the home.

(2) Respite providers and volunteers receive training which not only enhances their skills, but also lets them know they are a valued member of a respite team, worthy of receiving information to improve the quality of their work.

(3) Respite providers and volunteers receive training prior to providing care. Training is individualized to meet the needs of providers. In some situations, providers may already possess the requisite skills and background. In general, the following topics are included in training for providers. Additional topics may need to be added in specific circumstances:

- (a) Overview of respite services and importance of respite as a valued service.
- (b) Overview of family caregiving issues, including but not limited to the positive and negative physical, emotional and familial consequences of caregiving.
- (c) Caregiver stress and resultant outcomes.
- (d) Confidentiality.
- (e) Communication skills.
- (f) Disability awareness.
- (g) Respect for the independence and abilities of the care recipient.
- (h) Child, adolescent, and adult development and aging issues, as appropriate for the respite setting.
- (i) Conditions of individuals which respite providers are likely to encounter, such as disabilities, chronic or terminal illnesses, dementia and those at risk of abuse and neglect.
- (j) Family diversity (cultural, ethnic, racial, linguistic, family composition).
- (k) Effective ways to work with families of individuals with disabilities and chronic or terminal illnesses and/or families in crisis.
- (l) Planning and preparing developmentally appropriate activities; maintaining appropriate routines and schedules for those in care.
- (m) Policies and procedures for the respite program, including expectations for reporting and documentation.

- (n) Emergency procedures (First Aid, CPR, program emergency protocols).
- (o) General information about the spread of infectious disease, and universal precautions to be used in the care of individuals to avoid the spread of disease.
- (p) Program procedures for the administration of medication and other health related tasks; special hair and skin care.
- (q) Abuse and neglect detection and reporting protocol for mandated reporters.
- (r) Crisis intervention; issues in domestic violence and substance abuse.
- (s) Behavior management; what behaviors to expect from individuals with specific disabilities such as autism, and managing individuals with difficult behaviors, including dementia, and of those whose family is experiencing a crisis.

*Source: National Respite Guidelines, October 2011*

#### **§ 75-50-035.08 Discontinuance of Services**

The CBO may discontinue services provided under this chapter when the Council exhausts its resources for providing the services, the client can no longer benefit from the services provided, or the client's or the provider's health or safety would be jeopardized if the services were continued. Specific reasons for discontinuing services may include the following:

- (1) The client's medical needs may require daily nursing. Indications are the client experiencing falls, failing to take needed medication, or suffering from uncontrolled tuberculosis or two people are needed to move the client;
- (2) The client is sexually harassing, verbally abusive, threatening, or combative towards the person delivering services;
- (3) The client's care plan exceeds the limits of the in-home care limits;
- (4) The client's living environment presents health and fire hazards or unsafe conditions for the person delivering services;
- (5) The client's family and individuals from other support systems have discontinued providing care or are unable to provide the care needed;
- (6) The client is not in compliance with the case service plan;

- (7) The client's cognitive ability is limited to the extent that the client is not oriented to person, place, or time;
  - (8) The client is not capable of self-preservation in an emergency;
  - (9) The client's condition has improved and no longer meets program eligibility;
  - (10) The client failed to contribute to the program as required;
  - (11) The client refuses to allow the service provider on the premises;
  - (12) The client or others in the household are under the influence of drugs or alcohol;
- or
- (13) The client has pornographic materials exhibited in the home.

**§ 75-50-035.09 Payment Sources to Assist Families**

The CBO shall implement a procedure in order to provide information to interested persons on ways to obtain vouchers, payments, subsidies, loans grants, and linking families and caregivers with payment sources for respite services.

**§ 75-50-035.10 Community Resources**

(a) The CBO shall identify community resources that could help alleviate or subsidize the cost respite care for the CBO, client or primary caregivers.

(b) The CBO shall coordinate with other government agencies, private for or non-profit organizations and any other entity to ensure a community approach is taken in providing respite care.

**§ 75-50-035.11 Community Collaboration**

The CBO shall collaborate with other agencies, for and non-profit organizations and human service organizations to enhance service provision and program evaluation when planning and providing, respite programs.

(a) The CBO shall develop service options that meet the needs of family caregivers who are unserved or underserved and which interface effectively with existing service systems, programs, and natural supports.

(b) The CBO shall engage in interagency collaboration to enhance the array of respite services, thus providing family caregivers with appropriate choices and options.

(c) The CBO shall consider collaboration on training, funding, sharing technical expertise and support, and the development of multiple community service options with partner agencies.

(d) The CBO shall collaborate with other interested organizations to raise funds to subsidize respite program needs.

**§ 75-50-035.12 Access to Program**

The CBO shall ensure the respite care program is available to everyone, regardless of race, ethnicity, gender or religious belief on all 3 Senatorial Districts.

**§ 75-50-035.13 Data Collection of Participants for Program Improvement and Distribution of Information**

In order to enhance respite service evaluation, the CBO shall form partnerships with state and community agencies (e.g., institutions of higher education, state agencies) to collaborate on needs assessments and program evaluation. These information can be used by the CBO for budgetary purposes, grants application, program improvement or for any other purpose.

The CBO shall collect the following information:

- (a) Reasons family caregivers are seeking services;
- (b) Impact of services on family caregiver stress and quality of life;
- (c) Impact on caregiver interpersonal relationships;
- (d) Caregiver work-related secondary benefits;
- (e) Family caregiver requests for service changes, expansion, and new service development;
- (f) Family caregiver involvement in services;
- (g) Staff satisfaction;
- (h) Program cost-effectiveness;
- (i) Achievement of program goals and benefits;
- (j) Impact of the services on the community;
- (k) Special activities (e.g., public awareness, fundraising);

(l) Provider and volunteer training is assessed in terms of skill levels as well as satisfaction with the training;

(m) Units of service (i.e., numbers of care recipients and families served; hours/days of care);

(n) Service location (e.g., home, community, hospital, group home);

(o) Ethnicity, family composition and primary language of families;

(p) Requests for service;

(q) Unmet service needs and waiting lists; and

(r) Costs of services.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
**DEPARTMENT OF LABOR**  
**OFFICE OF THE SECRETARY**

1356 Building, Capitol Hill, P.O. Box 10007, Saipan, MP 96950  
Telephone Nos. (670) 664-3196 or 664-3197 Telefax



EDITH DELEON GUERRERO  
Acting Secretary

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS AND  
NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE  
EMPLOYMENT RULES AND REGULATIONS WHICH BECAME  
EFFECTIVE JUNE 01, 2010**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Department of Labor, intends to adopt as permanent the Proposed Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1CMC subsection 9104(a). The Rules and Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC subsection 9105(b).

**INTENDED PROPOSED RULES AND REGULATIONS AND IMMEDIATE EFFECT:** The Department of Labor finds that:

- (1) Under the existing language of the current Employment Rules and Regulations section 30.3-200 Job Vacancy Announcement subsection 30.3-205, needs to be amended to apply fairness to all employees in the CNMI.
- (2) The same rules and regulations will be adopted as permanent regulations pursuant to the attached Notice of Proposed Rules and Regulations

**AUTHORITY:** The Secretary of Labor is authorized to promulgate rules and regulations pursuant to Section 4961 of the Commonwealth Employment Act of 2007 as amended by the Immigration Conformity Act Of 2010 and the N.M.I. Administrative Code Chapter 80 Department of Labor Employment Rules and Regulations section 80-10.1

## THE TERMS AND SUBSTANCE:

Short Statement of Goals and Objectives: The amendment would require and ensure that all unemployed individuals have access to all available job vacancies on the Department of Labor website so that an employer may select the most qualified and available worker.

Brief Summary of the Proposed Regulation: The amendment would require all employers to post all job vacancy announcements on the Department of Labor website and to provide all available and qualified workers an opportunity to see all jobs available.

## RULES AND REGULATIONS

Amendment to the Employment Rules and Regulations (effective June 01, 2010)

Section 30.3-200 Job Vacancy Announcement.

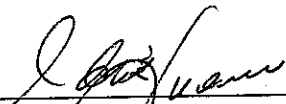
Subsection 30.3-205 Posting. An employer who intends to employ on a full-time or part-time basis (under any new employment arrangement, any renewal of any existing employment arrangement, or any transfer) must post a job vacancy announcement on the Department's website, [www.marianaslabor.net](http://www.marianaslabor.net).


**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Regulations shall be published pursuant to the Commonwealth Register in the section on proposed and newly adopted regulations (see 1 CMC subsection 9102(a)(1) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC subsection 9104(a)(1))


The Secretary of Labor shall take appropriate measures to make these Regulations known to the persons who may be affected by them (1 CMC subsection 9105(b)(2))

**TO PROVIDE COMMENTS:** Please send or deliver your comments to Edith De Leon Guerrero, Acting Secretary of Labor, P.O. Box 10007 Saipan, MP 96950. Comments are due within 30 days from the date of publication of this notice. Please submit data, views or arguments. (1 CMC subsection 9104(a)(2)).

These proposed rules and regulations were approved by the Acting Secretary of Labor on December 12, 2013


Submitted by:  December 12, 2013  
Edith De Leon Guerrero  
Acting Secretary of Labor  
Date

Received by:  12/26/13  
Esther S. Fleming  
Governor's Special Assistant  
for Administration  
Date

Filed and Recorded by:  12.26.2013  
Esther Sn. Nesbitt  
Commonwealth Register  
Date

Pursuant to 1 CMC subsection 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC subsection 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, (1 CMC subsection 2153(f) (publication of rules and regulations).

Dated this 26<sup>th</sup> day of December 2013.

  
Joey P. San Nicolas  
Attorney General



**COMMONWEALTH GI SANGKATTAN NA ISLAS MARIANAS  
DIPATTAMENTUN HUTNALERU  
UFISINAN SEKRETÀRIA**

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**NUTISIAN PUPBLIKU GI MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA YAN  
NUTISIAN INTENSION PARA U ADÀPTA I AMENDASION SIHA PARA I AREKLAMENTU YAN  
REGULASION INEMPLEHU SIHA NI PARA U IFEKTIBU GI HUNI 01, 2010**

**I AKSION NI MA'INTENSIONA PARA U ADÀPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN  
REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Marianas Siha, i Dipattamentun  
Hutnaleru, ha intensiona para u adàpta kumu petmanienti i Manmaproponi na Areklamentu yan  
Regulasion siha, sigun gi manera siha gi Àktun Administrative Procedure, 1 CMC subsection 9104(a).  
I Areklamentu yan Regulasion siha para u ifektibu gi halum i dies(10) dihas dispues di adàptasion yan  
publikasion gi halum i Rehistran Commonwealth. (1 CMC subsection 9105(b)).

**MA'INTENSIONA I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA YAN U IFEKTIBU  
INSIGIDAS:** I Dipattamentun Hutnaleru ha sodda' na:

- (1) Gi papa' i presentu na lingguahi gi presentu na Areklamentu yan Regulasion gi Inemplehu gi  
seksiona 30.3-200 gi Anunsiun Bakàntin Cho'chu' subsection 30.3-205, ha nisisita para u  
ma'amenda para u aplika i fairness para todú emple'ao siha gi halum CNMI.
- (2) Gi parehu na areklamentu yan regulasion siha ni para u ma'adàpta kumu petmanienti  
na regulasion siha sigun gi mañechettun na Nutisia gi Manmaproponi na Areklamentu  
yan Regulasion siha.

**ÀTURIDÀT:** I Sekretàrian Hutnaleru ma'aturisa na para u cho'gui i areklamentu yan i regulasion siha  
sigun gi Seksiona 4961 gi Àktun Inemplehun Commonwealth gi 2007 kumu ma'amenda ni Àktun  
Immigration Conformity gi 2010 yan i N.M.I. Kodigun Administrative Kapitulo 80 gi Areklamentu yan  
Regulasion siha gi Inemplehu gi Dipattamentun Hutnaleru seksiona 80-10.1

**I TEMA YAN I SUSTÀNSIAN PALÀBRA SIHA:** I amendasion para u dimànda yan u na'siguru na todú i  
ti manma'emplepleha na indibiyuât siha para u fangai lugât ti todú i guaha na bakàntin cho'chu' siha  
gi website Dipattamentun Hutnaleru kosa ki i employer siña manatyik ni mäs kuâlifikáo yan i guaha  
na facho'chu' na tãotão.

**Kadada' na sinumària gi Manmaproponi na Regulasion:** I amendasion para u dimànda todú  
employers para u pega todú i anunsiun bakàntin cho'chu' siha gi website i Dipattamentun Hutnaleru  
yan u pribeniyi todú i guaha yan mangkuâlifikáo na facho'chu' ni opottunidât para u mali'i todú i  
guaha na cho'chu'.

Sigun i 1 CMC § 2153(e) (Inapruedan Abugâdu Henerât gi regulasion siha na para u macho'gui kumu para fotma) yan 1 CMC § 9104(a)(3) (hentan inapruedan Abugâdu Henerât) i maproponi na regulasion siha ni mañechettun guini gi manmaribisa yan ma'aprueda kumu fotma yan ligât sufisienti ginin i CNMI Abugâdu Henerât yan debi na u mapublika, (1 CMC § 2153(f) (publikasion i areklamentu yan regulasion siha).

Mafetcha gi diha 26<sup>th</sup> di December, 2013



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Joey P. San Nicolas  
Abugâdu Henerât

## AREKLAMANTU YAN REGULASION SIHA

Amendasion para i Areklamentu yan Regulasion Siha gi Inemplehu (ifektibu gi Huniu 01, 2010)

Seksiona 30.3-200 Anunsiun Bakântin Cho'chu'.

I Subsection 30.3-205 Mapepega. I employer ni ha intensiona para u fanemple'a gi full-time pat part-time na manera (gi papa' hâfa i nuebu na employment arrangement, hâfa na renewal gi hâfa na existing employment arrangement, pat hâfa na transfer) debi na u mapega i anunsiun bakântin cho'chu' gi website i Dipattamentu, [www.marianaslabor.net](http://www.marianaslabor.net).

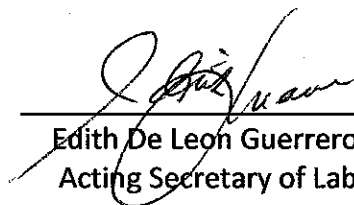
**DIREKSION PARA U MAPO'LO YAN PUPBLIKASION:** Esti i Manmaproponi na Regulasion siha debi na u mapublika sigun gi Rehistran Commonwealth gi halum i seksiona gi manmaproponi yan nuebu na manma'adâpta na regulasion siha (atan i 1 CMC subsection 9102(a)(1) yan u fanmapega gi halum i mangkumbinienti na lugât siha gi halum i civic center yan i ufisinan gubietnamentu siha gi halum kada distritun senadot, parehu English yan lingguâhin natibu. (1 CMC subsection 9104(a)(1)

I Sekretarian Hutnaleru debi na u chuli' propiu na inadahi ni para u fa'tinas esti na Regulasion siha ni para u matungu' ni petsona siha nai siña maninafekta siha (1 CMC subsection 9105(b)(2)

**PARA U MAPRIBENIYI UPIÑON SIHA:** Put fabot na'hânão pat intrega i upiñon-mu guatu gi as Edith De Leon Guerrero, Acting Secretary of Labor, P.O. Box 10007 Saipan, MP 96950. Todu upiñon siha debi na u fanhâlum guatu gi halum trenta(30) dihas ginin i fetchan pupublikasion esti na nutisia. Put fabot na'hâlum i imfotmasion, upiñon pat kinontestan kinentra siha. (1 CMC subsection 9104(a)(2).

Esti i manmaproponi na areklamentu yan regulasion siha manma'aprueba ni Acting Secretary of Labor gi December 12, 2013.

Nina'hâlum as:

  
Edith De Leon Guerrero  
Acting Secretary of Labor

December 12, 2013

Fetcha

Rinisibi as:

  
Esther S. Fleming  
Espisiât Na Ayudânti Para i Atministrasion Gubietnu

12/26/13

Fetcha

Pine'lu yan Ninota as:

  
Esther Sn. Nesbitt  
Rehistran Commonwealth

12.26.2013

Fetcha

ARONGORONGOL TOULAP REEL POMWOL ALLÉGH ME AMMWEL  
ME POMWOL REBWE ADAPTÁÁLI LIWELL KKA REL  
ALLÉGHÚL SCHÓÓL ANGAANG LLÓL BWULASIYOOL ANGAANG  
(LABOR) IWE E BWUNGULÓ WÓL JUNE 01, 2010

**MÁNGEMÁNGIL MWÓGHUT YEEL BWE EBWE ADAPTÁÁLI POMMWOL**

**ALLÉGH ME AMMWEL KKA:** Bwulasiyool Angaang mellól Téél Falúw kka Efáng llól Marianas, re mángemengil bwe rebwe adaptááli bwe ebwe llégh ló pomwol Allégh me Ammwel sáangi mwóghutughutúl Administrative Act, 1 CMC 9104 (a). Allégh me Ammwel kka nge ebwe bwunguló llól seigh (10) ráll mwiirilól yaal adaptááli me akkatéewow me Commonwealth Register. (1 CMC 9105 (b)).

**MÁNGEMÁNGIL POMMWOL ALLÉGH ME AMMWEL KKA ME BWUNGULÓL:**  
Bwulasiyol Angaang e chungí bwe:

1. Sáangi kkapasal Alléghúl me Ammwelil Schóól Angaang llól táilil 30.3-200 Arongorong rel Aiyooral Angaang me leyil táilil 30.3-205, ebwe liwell ló bwele igha ebwe yoor aweewe leyiir schóól angaang llól CNMI.
2. Rel Allégh me Ammwel kka nge rebwe adaptááli bwe ebwe llégh ló sáangi millikka e appaschlong bwe Arongorongol Pomwol Allégh.

**BWÁNGIL:** Samwoolul Bwulasiyol Angaang (Labor) eyoor bwángil bwe ebwe attootowow Allégh me Ammwel sáangi táilil 4961 merel Commonwealth Employment Act of 2007 iwe re liwelli sáangi Immigration Conformity Act of 2010 me N.M.I Administrative Act Code Chapter 80 Alléghúl Bwulasiyol Angaang (Labor) táilil 80-10.1.

**KKAPASAL ME AWEEWEL:**

**AWEEWEL ME MWÓGHUTUGHUTÚL:** Liwell kkaal nge ebwe ayoora me ebwe ffat bwe ólongeer schóókka rese angaang ebwe mmwel ngaliir bwe rebwe toolong bwe rebwe amweeri angaang kka eyoor llól jaar Department of Labor Website bwe Schóól Umwuumwul Angaang ebwe affil leyiil schóókka re ffil me emmwel rebwe le angaang.

**KKAPASAL POMWOL AMMWEL:** Liwell kkaal nge ebwe ayoora ngaliir Schóól Umwuumwul Angaang bwe rebwe akkatééwow Arongorong rel ngáre ebwe eyoor angaang.

**ALLÉGH ME AMMWEL**

Liwell rel Allégh me Ammwel rel Schóól Angaang (Bwungulól June 01, 2010)

Tálil 30.3-200 – Arongorong rel igha eyoor angaang.

Tálil 30.3-205 -Appaschlongol. rel schóól angaang iye re mánagemángil bwe rebwe angaang Full-time me ngáre Part-time (faal mwóghutughutúl angaang kka e ffé, mwóghutughutúl rel mille ebwe fféer sefáál igha re schiwel kke angaang, me ngáre ebwe téélong llól eew angaang) rebwe isiisiwow arongorong ngáre eyoor angaang wól Department Website ; [www.marianaslabor.net](http://www.marianaslabor.net)


**AFALAFAL REEL ISIISILONGOL ME AKKATÉÉWOWUL:** Pomwol Ammwel kkaal ebwe akkatéélong llól Commonwealth Register llól tálil ye re pomwoli me fillóoy allégh kka re ffé (1 CMC Tálil 9102(a)(1)) me ebwe appaschetá igha toulap rebwe weri iye me bwal llól bwulasiyool Gobenno kkaal llól senatorial district, fengál rel kkasal English, Refaluwasch me Remeraalis. (1 CMC Tálil 9104(a)(1))

Samwoolul Bwulasiyol Angaang ebwe pomwoli fillóoyil mwóghutughutúl bwe aramas rebwe tam rel millikka rebwe filimwááng rel (1 CMC Tálil 9105 (b)(2))

**ATOOTOLONGOL MÁNGEMÁNG:** Afanga me ngáre bwughiiló ischil mánagemángúmwe reel Ilimwár ye Edith De Leon Guerrero, Secretary of Labor ngáli address ye P.O. Box 10007 Saipan, MP 96950. Ebwe bwungulól llól 30 ráll sáangi ráll ye akkatééwowul arongorong. Isáálong yáámi Data, Views me ngáre angingi. (1 CMC Tálil 9104(a)(2))

Pomwol Allégh me Ammwel kkaal nge a bwungulól sáangi Samwoolul Bwulasiyol Angaang (Labor) wól December 12, 2013

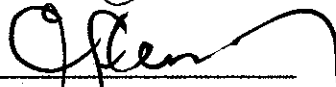
Isááliyallong:

  
EDITH DE LEON GUERRERO  
Acting Secretary of Labor

December 12, 2013

Ráll

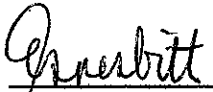
Mwiir sáangi:

  
ESTHERS. FLEMING  
Governor's Special Assistant  
For Administration

12/20/13

Ráll

Ammwel Sangi:


  
ESTHER S. NESBITT  
Commonwealth Register

12.26.2013

Ráll

Sáangi allégh ye 1 CMC Tálil 2153(e) (Alúghúlúgh mereel AG igha ebwe akkatéeló allégh kka ighila) me 1 CMC Tálil 9104(a)(3) (E bwughi alúghúlúghúl AG) pomwol allégh kka e appasch nge raa takkal amweri fischi mereel CNMI Sów Bwungul Allégh Lapalap (AG) me ebwe akkatéeló llól, (1 CMC Talil 2153(f) (arongorongol allégh me Ammwel kkaal)

Ráálil ye 26 llól maramal December 2013

  
JOEY P. SAN NICOLAS  
Attorney General



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Eloy S. Inos**  
Governor

**Jude U. Hofschneider**  
Lieutenant Governor

## **EXECUTIVE ORDER NO. 2013-25**

### **SUBJECT: DECLARATION OF A STATE OF SIGNIFICANT EMERGENCY**

**AUTHORITY:** I, JUDE U. HOFSCHEIDER, pursuant to the authority vested in me as Acting Governor of the Commonwealth of the Northern Mariana Islands by Article III, § 10 of the Commonwealth Constitution and PL 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013, do hereby declare a State of Significant Emergency for the Commonwealth of the Northern Mariana Islands due to the imminent threat of the inability of the Commonwealth Utilities Corporation ("CUC") to provide critical power generation, water, and wastewater services to the CNMI and considering the harm such condition would pose to the community, environment, and critical infrastructure of the Commonwealth of the Northern Mariana Islands.

**WHEREAS, CUC IS THE SOLE ELECTRICITY SUPPLIER** to the Government of the CNMI, including all public safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the CNMI's businesses and homes. While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than that used for CUC power.

### **WHEREAS, WITHOUT CUC ELECTRICITY:**

- (1) Most CNMI economic activity would come to a halt, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;
- (2) The CNMI's health and safety would immediately be at risk because traffic signals and street lighting would cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited fuel supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;

- (3) The public schools and the Northern Marianas College would close. Other educational institutions would close as their backup fuel supplies for emergency generators were exhausted; and
- (4) Water and sewage treatment would soon end. One of CUC's largest electric customers is the combined CUC Water and Wastewater Divisions. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflows, contaminating land and water.

**WHEREAS, THERE EXISTS A FINANCIAL CRISIS:**

- (1) CUC is owed approximately \$18 million by the public school system ("PSS") and the Commonwealth Healthcare Corporation ("CHC") and is owed over millions more by residential users;
- (2) There is conflict and potential conflict between CUC and government agencies over money owed and other issues. Such conflict drains resources especially if it results in the parties going to court. Interagency cooperation and oversight is vital to ensure that government agencies can continue its operations without draining CUC's remaining resources.
- (3) Although the commonwealth economy has recently improved, the improvement is only marginal and the economy and the government's finances are still fragile. This government strains to meet its obligations.
- (4) CUC often only has days' worth of purchased diesel fuel to power its system because it lacks the funds to buy oil from its sole, cash-only supplier. CUC has no credit or other means to buy fuel than the revenue it collects from its customers;

**WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:**

- (1) CUC faces a manpower crisis. Skilled workers and a responsive support system are key to the success of the operation, particularly for preventative maintenance. At present, CNMI law at 3 CMC §§ 4531 and 4532 prohibits CUC from hiring any more non-U.S. technical workers;
- (2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental Protection Agency ("EPA"), pursuant to two sets of consent, or "Stipulated Orders." Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;



- (3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts. Without these positions filled, CUC operations would be severely compromised;
- (4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC's ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen foreign workers and reinstating a moratorium on the government's hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The CUC Act, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law.* 4 CMC § 8123(h);
- (5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidates;
- (6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team, with all expenses charged to CUC customers.
- (7) CUC's renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC's systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth.

**WHEREAS, A BOARD OF DIRECTORS DOES NOT EXIST:**

- (1) There is no Board of Directors. CUC has functioned without a Board because it has had to. While CUC's enabling act, reenacted as P.L. 16-17, as amended, authorizes a Board, there is no CUC Board yet. The staff of the Governor's Office has diligently tried to find persons who meet the complex statutory qualifications but they have been unable to do so and the search goes on. Nonetheless, CUC must continue to function.
- (2) Without a Board in place, I still must provide for the continued operations of CUC. The Executive Director needs to be able to negotiate with federal and other agencies.

**WHEREAS, BY THIS DECLARATION OF A STATE OF SIGNIFICANT EMERGENCY, I intend to enable CUC to continue to provide necessary services to the people of the**

Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.

**NOW, THEREFORE,** I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and PL 18-4 § 104(c), to take all necessary measures to address the threats facing the Commonwealth of the Northern Mariana Islands including, but not limited to, the authority to:

1. Suspend all statutory or regulatory provisions as required; and
2. Utilize all available resources of the Commonwealth government and its political subdivisions as reasonably necessary to respond to the emergency.

It is hereby **ORDERED** that:

This Declaration of a State of Significant Emergency shall take effect immediately and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30)-day period, terminate the declaration of a state of significant emergency. PL 18-4, § 104(g)

Under authority of this Declaration and with the goal of mitigating or ameliorating the above described crises, I immediately direct the following:

**DIRECTIVE 1:** All of the executive power of the CUC, which shall include any and all powers vested in the Board of Directors and the Executive Director, shall be exercised by the Executive Director.

**DIRECTIVE 2:** Section 4531 of Title 3 of the Commonwealth Code is hereby suspended as to CUC as follows:

The following strike-out formatted language of the quoted provisions of the following statute regulating government employment is, as indicated, suspended immediately:

**3 CMC §4531. Restrictions on Government Employment**

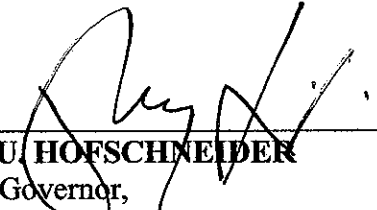
~~Employment by departments, agencies, and all other instrumentalities of the Commonwealth government is limited to citizens and permanent residents; provided that the government may enter into contracts with foreign nationals for services performed outside of the Commonwealth.~~

As a result of my suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

The above described Directives are in no way meant as the limits of my actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration

to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

**SIGNED AND PROMULGATED** on this 16<sup>TH</sup> day of November 2013.

  
\_\_\_\_\_  
**JUDE U. HOFSCHEIDER**  
Acting Governor,  
Commonwealth of the Northern Mariana Islands



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Eloy S. Inos**  
Governor

**Jude U. Hofschneider**  
Lieutenant Governor

## EXECUTIVE ORDER No. 2013- 26

### DECLARATION OF HEALTH EMERGENCY

**WHEREAS**, the Commonwealth Healthcare Corporation ("CHC") provides the majority of necessary healthcare in the Commonwealth, as well as providing all emergency medical services; and

**WHEREAS**, the disruption of the provision of medical services by the CHC poses a direct threat to the health and safety of the people of the Northern Mariana Islands; and

**WHEREAS**, while the operations and finances of CHC are improving, CHC's operations and finances are still in an uncertain state with vital positions still needing to be filled and vendors needing to be paid; and

**WHEREAS**, although CHC's financial condition is improving, it is still in such a state that it is jeopardizing CHC's federal funding because it affects CHC's ability to maintain adequate infrastructure, equipment and personnel; and

**WHEREAS**, CHC, in 2012, had been notified by federal authorities that due to deficiencies in CHC operations and infrastructure, CHC will cease to be eligible for Medicare/Medicaid payments, along with other penalties, if the deficiencies are not timely remediated; and

**WHEREAS**, CHC was given a temporary reprieve by the federal authorities and an inspection was conducted recently by the Center for Medicare/Medicaid Services that was positive, a final decision on CHC eligibility for Medicare/Medicaid payments has not been rendered and steps still need to be taken to meet the federal requirements or Medicare/Medicaid funding will be ended, such steps include the hiring of key medical personnel, the acquisition of medical equipment and supplies, and specified training for CHC staff.

**WHEREAS**, the termination of Medicare/Medicaid funding will lead to the termination or reduction of many of the medical programs and services provided by CHC leading to an increase in otherwise preventable deaths, illness and injury.

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200/2300 Facsimile: (670) 664-2211/2311

**WHEREAS**, management of CHC has improved, it is still incomplete and unstable as no permanent Chief Executive Officer has been appointed which may thwart CHC's ability to meet federal requirements.

**WHEREAS**, Article III §10 of the Constitution of the Commonwealth and PL 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013 provide that the Governor has the authority and duty to take necessary steps to respond to impending disasters:

**NOW THEREFORE, I, ELOY S. INOS**, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, § 10 of the Commonwealth Constitution and PL 18-4, do hereby declare a State of Significant Emergency for the Commonwealth of the Northern Mariana Islands due to the imminent threat of the disruption of critical medical services in the Commonwealth and the danger that such a condition poses to the public because of the great increase in otherwise preventable deaths, illness and injury that would result.

**WHEREAS**, by this Declaration of a State of Significant Emergency, I intend to enable CHC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of all CNMI residents and visitors.

**NOW, THEREFORE**, I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and PL 18-4 § 104(c), to take all necessary measures to address the threats facing the Commonwealth of the Northern Mariana Islands and CHC including, but not limited to, the authority to:

1. Suspend all statutory or regulatory provisions as required; and
2. Utilize all available resources of the Commonwealth government and its political subdivisions as reasonably necessary to respond to the emergency.

It is hereby **ORDERED** that:

This Declaration of a State of Significant Emergency shall take effect immediately and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, terminate the declaration of a state of significant emergency. See PL 18-4, § 104(g).

Under the authority of this Declaration and with the goal of mitigating or ameliorating the above described crises, I immediately direct the following:

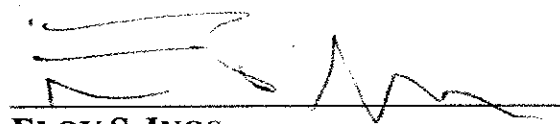
**Directive 1:** All of the executive power of the CHC shall be exercised either by me or by my designated Chief Executive Officer.

**Directive 2:** Authority is granted to suspend applicable procurement regulations as authorized by me so as to ensure timely compliance with Center for Medicare and Medicaid Services certification.

**Directive 3:** To ensure that the suspension of regulatory provisions does not lead to financial abuse, this emergency declaration incorporates the March 19, 2012 Memorandum of Understanding (MOU) between CHC and the Department of Finance, Office Management and Budget, and Office of the Attorney General. In addition, any financial reports submitted by the CHC pursuant to the MOU must be submitted with a certification of the person submitting them stating that the reports are a full and accurate under penalty of perjury.

The above described Directives are in no way meant as the limits of actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

Done this 26<sup>TH</sup> day of November, 2013



**ELOY S. INOS**  
Governor



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Eloy S. Inos**  
Governor

**Jude U. Hofschneider**  
Lieutenant Governor

## **EXECUTIVE ORDER NO. 2013- 27**

### **SUBJECT: DECLARATION OF A STATE OF SIGNIFICANT EMERGENCY**

**AUTHORITY:** I, ELOY S. INOS, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, § 10 of the Commonwealth Constitution and PL 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013, do hereby declare a State of Significant Emergency for the Commonwealth of the Northern Mariana Islands due to the imminent threat of the inability of the Commonwealth Utilities Corporation ("CUC") to provide critical power generation, water, and wastewater services to the CNMI and considering the harm such condition would pose to the community, environment, and critical infrastructure of the Commonwealth of the Northern Mariana Islands.

**WHEREAS, CUC IS THE SOLE ELECTRICITY SUPPLIER** to the Government of the CNMI, including all public safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the CNMI's businesses and homes. While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than that used for CUC power.

### **WHEREAS, WITHOUT CUC ELECTRICITY:**

- (1) Most CNMI economic activity would come to a halt, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;
- (2) The CNMI's health and safety would immediately be at risk because traffic signals and street lighting would cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited fuel supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;
- (3) The public schools and the Northern Marianas College would close. Other educational institutions would close as their backup fuel supplies for emergency generators were exhausted; and

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Page 1

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200/2300 Facsimile: (670) 664-2211/2311

- (4) Water and sewage treatment would soon end. One of CUC's largest electric customers is the combined CUC Water and Wastewater Divisions. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflows, contaminating land and water.

**WHEREAS, THERE EXISTS A FINANCIAL CRISIS:**

- (1) CUC is owed approximately \$18 million by the public school system ("PSS") and the Commonwealth Healthcare Corporation ("CHC") and is owed over millions more by residential users;
- (2) There is conflict and potential conflict between CUC and government agencies over money owed and other issues. Such conflict drains resources especially if it results in the parties going to court. Interagency cooperation and oversight is vital to ensure that government agencies can continue its operations without draining CUC's remaining resources.
- (3) Although the commonwealth economy has recently improved, the improvement is only marginal and the economy and the government's finances are still fragile. This government strains to meet its obligations.
- (4) CUC often only has days' worth of purchased diesel fuel to power its system because it lacks the funds to buy oil from its sole, cash-only supplier. CUC has no credit or other means to buy fuel than the revenue it collects from its customers;

**WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:**

- (1) CUC faces a manpower crisis. Skilled workers and a responsive support system are key to the success of the operation, particularly for preventative maintenance. At present, CNMI law at 3 CMC §§ 4531 and 4532 prohibits CUC from hiring any more non-U.S. technical workers;
- (2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental Protection Agency ("EPA"), pursuant to two sets of consent, or "Stipulated Orders." Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;
- (3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts.



Without these positions filled, CUC operations would be severely compromised;

- (4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC's ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen foreign workers and reinstating a moratorium on the government's hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The CUC Act, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law*. 4 CMC § 8123(h);
- (5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidates;
- (6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team, with all expenses charged to CUC customers.
- (7) CUC's renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC's systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth.

**WHEREAS, A BOARD OF DIRECTORS DOES NOT EXIST:**

- (1) There is no Board of Directors. CUC has functioned without a Board because it has had to. While CUC's enabling act, reenacted as P.L. 16-17, as amended, authorizes a Board, there is no CUC Board yet. The staff of the Governor's Office has diligently tried to find persons who meet the complex statutory qualifications but they have been unable to do so and the search goes on. Nonetheless, CUC must continue to function.
- (2) Without a Board in place, I still must provide for the continued operations of CUC. The Executive Director needs to be able to negotiate with federal and other agencies.

**WHEREAS, BY THIS DECLARATION OF A STATE OF SIGNIFICANT EMERGENCY, I intend to enable CUC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.**

**NOW, THEREFORE, I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and PL 18-4 § 104(c), to take all necessary measures to address the threats facing the Commonwealth of the Northern Mariana Islands including, but not limited to, the authority to:**

1. Suspend all statutory or regulatory provisions as required; and
2. Utilize all available resources of the Commonwealth government and its political subdivisions as reasonably necessary to respond to the emergency.

It is hereby **ORDERED** that:

This Declaration of a State of Significant Emergency shall take effect immediately and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30)-day period, terminate the declaration of a state of significant emergency. PL 18-4, § 104(g)

Under authority of this Declaration and with the goal of mitigating or ameliorating the above described crises, I immediately direct the following:

**DIRECTIVE 1:** I hereby assume all powers and duties of the Board of Directors of CUC

**DIRECTIVE 2:** Section 4531 of Title 3 of the Commonwealth Code is hereby suspended as to CUC as follows:

The following strike-out formatted language of the quoted provisions of the following statute regulating government employment is, as indicated, suspended immediately:

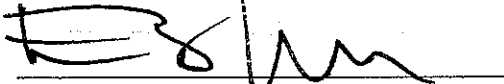
**3 CMC §4531. Restrictions on Government Employment**

~~Employment by departments, agencies, and all other instrumentalities of the Commonwealth government is limited to citizens and permanent residents; provided that the government may enter into contracts with foreign nationals for services performed outside of the Commonwealth.~~

As a result of my suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

The above described Directives are in no way meant as the limits of my actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

**SIGNED AND PROMULGATED** on this 16<sup>th</sup> day of December 2013.

A handwritten signature in black ink, appearing to read 'Eloy S. Inos', written over a horizontal line.

**ELOY S. INOS**  
Governor