# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN, MARIANA ISLANDS

Volume 11 No. 10



October 15, 1989

# commonwealth

register

# COMMONWEALTH REGISTER

October 15, 1989 Volume 11 No. 10

# TABLE OF CONTENTS

# ENERGENCY REGULATIONS

Emergency Rules and Regulations Commonwealth Board of Nurse Examiners Department of Public Health & Environmental Services	5560
PROPOSED REGULATIONS	
Proposed Rules and Regulations Licensure of Foreign Nurses Commonwealth Board of Nurse Examiners Department of Public Health & Environmental Services	6562
Proposed Rules and Regulations Public School System Policies Board of Education	6568
Proposed Rules and Regulations Rules of Professional Conduct for Engineers, Architects, Land Surveyors and Landscape Architects Board of Professional Licensing	6573
Proposed Rules and Regulations Medical Assistance for the Needy Medicaid Division Department of Public Health & Environmental Services	6579
Proposed Amendments to Rules and Regulations Distribution of Headnote 3(A) Production Department of Finance	6597
<u>ADOPTED</u> REGULATIONS	
Adopted Rules and Regulations Public School System Board of Education	6604

# NOTICE OF ADOPTION OF

#### **EMERGENCY REGULATIONS**

**EMERGENCY:** The Commonwealth Board of Nurse Examiners ("Board") hereby finds under 1 CMC § 9106 that to adequately protect the public health and safety the public interest requires the adoption of emergency regulations. Therefore, the Board hereby adopts emergency regulations to establish procedures for the licensure of foreign nurses by endorsement. The Board finds that the public interest requires the proposed regulations to be effective, as emergency regulations, upon filing this notice and the regulations with the Registrar of Corporations. These regulations will remain in effect for a period not to exceed 120 days.

CONTENTS: The regulations establish requirements and procedures for the licensure by endorsement of foreign nurses.

**<u>PUBLIC COMMENTS:</u>** Comments on the content of these regulations may be sent to the following address:

> Elizabeth S. Torres, R.N. Chairperson, Commonwealth Board of Nurse Examiners P.O. Box 1458 Saipan, MP 96950

**AUTHORITY:** The Board is authorized to promulgate regulations pursuant to 3 CMC § 2315.

Certified by:

ELIZABETH S. TORRES, R.N.

Chairperson

Commonwealth Board of Nurse

Examiners

Concurred by:

PEDRO P.

Governor

TENORIO

# NOTISIAN I MA' ADOPTAN REGULASION SIHA POT GOTPE NA NISISIDAT

# GOTPE NA NISISDAT:

I Commonwealth Board of Nurse Examiners ("Board") sigun gi papa 1 CMC § 9106 ha sodaa' na komu para u protehi kabales i hinemlo' yan i siguridat pupbliku; i enteres pupbliku ha mamanda i ma'adaptan regulasion siha put gotpe na nisisdat. Ayu mina' debi i Board na u adapta regulasion siha ni para u establesi i areklamento para uma endosa malisensian infetmera ginen hiyuong i ustado unidos. Ha sodaa' lokkue' i Board na ginagagao nu i enteres pupbliku na ayu i manmapropunponi siha na regulasion u fanefektibu komu regulasion gotpe na nesisidat ensigidas despues di masatmiti este na nutisia yan i manmapropuponi siha na regulasion siha guato gi rehistradot kotporasion. Este siha na regulasion u konsige manefektibu qi halom i tetminu ni ti u mas ke 120 dias.

#### FONDAMENTO:

I fondamenton i manmapropoponi na regulasion ayu i ma' establesin kondision ya areklamento siha pot manlisensian infetmera ni man ginen hiyuong ustados unidos ni para fan ma endosa.

#### UPINION PUPBLIKU:

Rekomendasion siha pot i fondamenton i manmaproponi na regulasion sina manmasatmiti quatu qi as senora Elizabeth S. Torres, Chairperson i Commonwealth Board of Nurse Examiners, Department of Public Health and Environmental Services, Saipan, MP, 96950. Inekungok pupbliku sina ha marikuosta ni maseha hafa na attension guietnamento. todu upinion pat osino' rekomendasion siha siempre u fanmakosidera gi kabales na manera.

#### ATORIDAT:

I Board ma' atorisa manlaknos regulasion siha gi papa' i 3 CMC § 2315. Certified by:

Elizabeth S. Torres, R.N.

Chairperson

Commonwealth Board of Nurse

Examiners

Concurred by:

PEDRO P. TENORIO

Governor

# PUBLIC NOTICE OF PROPOSED REGULATIONS OF COMMONWEALTH BOARD OF NURSE EXAMINERS

The Commonwealth Board of Nurse Examiners (the "Board"), pursuant to the authority provided under 3 CMC § 2315 and Administrative Procedures Act, 1 CMC § 9101 et seq. hereby notifies the public of its intention to amend its rules and regulations.

The proposed amended regulations will generally govern licensure by endorsement of foreign nurses. The proposed rules and regulations are published herewith.

Copies of the proposed amendments to the regulations are available from Elizabeth S. Torres, R.N., Chairperson, Commonwealth Board of Nurse Examiners, Department of Public Health and Environmental Services, Saipan.

The Board urges the public to submit written comments and recommendations regarding the proposed regulations within 30 days after the first publication in the Commonwealth Register to the following address:

Elizabeth S. Torres, R.N. Chairperson Commonwealth Board of Nurse Examiners P.O. Box 1458 Saipan, MP 96950

Elizabeth S. Torres, R.N.

Chairperson

Commonwealth Board of Nurse

Examiners

#### NUTISIAN PUPBLIKU

# I MANMAPRUPOPONI SHIA NA AMENDASION I REGULASION I COMMONWEALTH BOARD OF NURSE EXAMINERS

I Commonwealth Board of Nurse Examiners (I "Board"), sigun ni ma autorisa ni mana guahahaye gi papa 3 CMC § 2315 yan i administrative procedures act, 1 CMC § 9101 et seq. Estague naha notififika pupbliku pot i intension-na ni para ma amenda i areklamento yan regulasion.

I ma propone para ma amenda na areklamento yan regulasion siempre u ginetbetna gi heneratmente i para ma endosa nui lisensian infetmera siha qi hiyuong i ustado unidos. I manma propone siha na reklamento yan regulasion manma pupupblika.

Copian i manma prpone na amendasion para i regulasion mana quahahaye qi as Elizabeth S. Torres manehanten i offisinan i Commonwealth Board of Nurse Examiners, Depat-tamento i Public Health ya Environmental Services, Commonwealth Health Center, Saipan.

I Board ha sosohyu i pupbliku para u submiti i matugi na testimonio pat recomendasion para i tinetteka na regulasion gi halom trenta (30) dias despues de i finenena nama pupblika gi Commonwealth Register gi sigiente na address:

> Elizabeth S. Torres, R.N. Chairperson Commonwealth Board of Nurse Examiners P.O. Box 1458 Saipan, MP 96950

lisabeth & Lones, PN ELIZABETH S.

Chariperson

Commonwealth Board of Nurse

Examiners

# PROPOSED AMENDMENTS TO REGULATIONS PROMULGATED BY THE COMMONWEALTH BOARD OF NURSE EXAMINERS

- C. Licensure by endorsement of licenses issued by any of the United States.
- D. Licensure by endorsement of licenses issued by a foreign country.
  - 1. Qualifications of applicants.
    - a. Completion of high school or the equivalent, as approved by the Board of Nurse Examiners; and
    - b. Graduation from a nursing program approved by the Board of Nurse Examiners. Instruction must include, a minimum of four weeks in each of the following areas of nursing: medical, surgical, obstetrical, pediatric, and psychiatric nursing. Clinical experience must include a minimum of four weeks in each of the above areas; and
    - c. Passage of a licensing examination, with a current, unrestricted and active license to practice issued by another country at the discretion of the Board. Applicants who have taken the National Council Licensure Examination (NCLEX) or State Board Test Pool Examination (SBTP) and failed will not be eligible for licensure by endorsement; and
    - d. Licensure by endorsement of foreign licenses shall be limited to individuals who are CNMI residents, CNMI permanent residents as that term was used in CNMI Public Law No. 5-11, United States citizens, aliens lawfully residing in the CNMI, or individuals who have entered into a valid and lawful employment contract to work in the CNMI; and
    - e. An applicant must have been actively engaged in the practice of nursing for nine of the twelve months immediately preceding the date of application for licensure by endorsement; and

- f. If an individual has been granted a license by endorsement and subsequently takes the National Council Licensure Examination (NCLEX) or State Board Test Pool Examination (SBTP) and fails such examination, the license by endorsement shall be subject to immediate revocation.
- 2. Application procedure.
  - a. Submission of an application form provided by the Board of Nurse Examiners. The application must be notarized.
  - b. The application form shall be accompanied by:
    - 1) One copy of a recent passport type photograph, 2 X 2 inches, in color, with signature and date on the back;
    - 2) Certified birth certification from official agency of country of birth;
    - 3) Certified transcript forwarded directly by school of nursing;
    - 4) Verification of licensure shall be forwarded directly by foreign licensing agency in country of origin;
    - 5) Letter from the applicant's employer or employers verifying applicant's employment for nine of the preceding twelve months;
    - 6) A summary of all disciplinary action taken by the board or organization that issued the applicant's current license; and
    - 7) Cashier's check or money order for required fee. The application fee is nonrefundable.

# 3. License and temporary license.

- a. Upon examination of initial documentation, including a copy of the birth certificate and license from country of origin, applicant may be issued a Temporary License. (See Section I, F. on Temporary License).
- b. The Board reserves the right to refuse to issue a Temporary License until all documentation has been received and verified.
- c. If the applicant fails to complete the application process, or the Board determines that the applicant is ineligible for licensure by endorsement, the Board shall immediately terminate the Temporary License and the Temporary License shall be deemed null and void upon the Board's notice of termination. The applicant shall immediately return the license to the Board's office for disposal. No further Temporary License shall be issued.
- p'. E. Licensure of foreign graduates.
- F. Temporary licensure.
- \*\*. G. Renewal of license.
  - 1. A license for a Registered Nurse is valid for two years from the date of issuance, and shall expire on June 30th of the year of expiration.
  - 2. An application for renewal of license shall be mailed to each currently licensed Registered Nurse not less than 90 days prior to the expiration date. The Board of Nurse Examiners is responsible for mailing only to the last address provided by the applicant.
  - 3. The completed renewal application shall be returned to the Board of Nurse Examiners not later than 60 days prior to the license expiration date.
  - 4. Renewal application shall be accompanied by proof of completion of not less than 30 hours of approved continuing education for the two years immediately

preceding the expiration date of the current license.

- 5. The application for renewal shall be accompanied by a money order, check or cashier's check for the renewal fee. The fee is nonrefundable.
- 6. After verification of renewal application information, the Board shall issue a license for a two year period; provided however that a license issued by endorsement of license issued by a foreign country shall be limited to two years from the date of issuance, and shall expire on June 30th of the year of expiration. A license issued by endorsing a license issued be a foreign country may be renewed for one additional two year period, at the discretion of the Board of Nurse Examiners, on the following terms and conditions in addition to those stated above:

The renewal application shall be accompanied by a performance evaluation satisfactory to the Board which evaluates the applicant's performance as a nurse, and is prepared by one of the applicant's clinical coordinators, or one of the coordinators of the unit where the applicant worked, or the applicant's direct supervisor, any of whom must have had the opportunity to directly supervise the applicant for not less than six months.

- 7. A license issued by endorsing a license issued by a foreign country shall only be renewed once.
- £. H. Inactive status.
- M. I. Lapsed license.
- J. Licensure by waiver of qualifications.
- If a licensee who has been licensed by a Waiver of Qualifications under 1 CMC § 2323 or 2332, subsequently takes and fails the National Council Licensure Examination (NCLEX) or State Board Test Pool Examination (STBP), the Board shall immediately revoke such licensee's license.

# PUBLIC NOTICE

Proposed Adoption of Public School System Policies

The Board of Education of the Northern Mariana Islands, in accordance with Public Law 6-10, is proposing to adopt school policies.

The proposed rules and regulations include the following subject areas:

- 1. Honorarium for BOE Members
- 2. Official Representation Policy for BOE

Copies of the proposed regulation may be obtained from Elizabeth D. Rechebei, BOE Special Assistant, Public School System, Lower Base, Saipan, MP 96950.

Anyone interested in commenting on the proposed policy may do so by submitting comments in writing to the Chairman, Board of Education, P.O. Box 1370, Saipan, MP 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

B. Tudela, Chairman, Board of Education

# **NUTISIAN PUPBLIKU**

I Manmaprupoponi siha na Planon Minaneha gi Sisteman Eskuelan Pupbliku

Sigon gi Attekulu XV gi Konstitusion i Sangkattan siha na Islan Mariana yan i Lai Pupbliku Nuntiru 6-10, i Commonwealth of the Northern Mariana Islands Board of Education ginen este na nutisia ha prupoponi muna guaha Planon Minaneha, Areklamento yan Regulasion gi sigente siha na suhetu:

- 1. Apas Honorarium para i Membron i BOE
- 2. Areklomenton i BOE put ufisical na Reprisentasion

Kopian i manmaprupoponi siha na regulasion sina manmachule' gi ufisinan i Public School System Board of Education, Lower Base, Saipan, MP 96950.

Rekomendasion siha put i manmaprupoponi na planon minaneha sina manmatuge' ya u fanmasatmiti guatu gi Board of Education sino' u mana'fanhanao i Post Office gi halom sobri ni mamatka, Attention: Board of Education, P.O. Box 1370, Saipan, MP 96950, gi halom trenta (30) dias despues di i fecha ni mapupblika este na nutisia gi halom i Rehistran Commonwealth.

Mr. Juan B. Tudela

Chairman, Board of Education

# ARONGORONGOL TOWLAP

# AMMWÓGHÚTÚL ALLÉGHÚL PUBLIC SCHOOL SYSTEM

SÁNGI ÓYTOL XV IWE LLÓL ÁPPILÚGHÚLÚGHÚL NORTHERN MARIANA ISLANDS ME ALLÉGH YE 6-10, NGE BOARD OF EDUCATION KKA LLÓL NORTHERN MARIANAS, COMMONWEALTH, EKKE FFÉÉR BWE EBWE ARONGAAWOW ALLÉGHÚL MWÓGHÚTÚGHÚTÚL MIKIKKA E TÁTTÁLETIW:

- 1. ÓBWÓSSUL YÉÉLÁGHIIR BOE 2. ALLÉGHÚL ÓBWÓSSUL YÉÉLÁGHIIR BOE

KOPIYAAL ALLÉGH KKAAL EMMWEL SCHAGH UBWE TINGÓR ME BWULAASIYOOL PUBLIC SCHOOL SYSTEM BOARD OF EDUCATION, LOWER BASE, SAIPAN, MP 96950.

NGÁRE EGHAL YOOR TIPÓMW REEL ALLÉGH KKA AA FFÉÉR IISCH NGÁLIJR BOARD OF EDUCATION NGÁRE AFANGA LLÓL POST, NGE UBWE IKKAISÚL, ATTENTION: BOARD OF EDUÇATION, P.O. BOX 1370, SAIPAN, MP 96950, ELIIGH (30) RÁL SÁNGI RÁL YE E TOOWOW ARONGORONG YEEL MELLÓL COMMONWEALTH REGISTER.

Chairman-il Board of Education

# Policy on Honorarium

Pursuant to CNMI laws on honorarium for boards and commissions, the Board of Education members shall be granted honorarium provided that they are non-government employees who are gainfully employed and must take leave without pay to attend Board of Education meetings. Board members who are retired and not employed are entitled to honorarium.

The student representative shall not be granted honorarium for meetings attended unless the student is also employed in non-government employment after school hours and actually misses employment hours while attending Board meetings.

The rationale for this policy is to prohibit dependence on honorarium by the student board member who is not gainfully employed or retired which could induce the student member to miss excessive amounts of school instructional activity time. The student representative shall only receive honorarium in a pro rate amount for actual non-government employment hours missed while attending board meetings.

There will be a Board of Education Official Representation (OR) Fund as approved in the budget of the Board of Education.

Official Representation funds shall only be used for the official purpose of entertaining official guests of the Board of Education or the PSS in the conduct of official business and to purchase refreshments for consumption at public Board of Education meetings.

The Chairperson of the Board of Education shall authorize use of OR funds as follows:

- 1. Request for an advance of OR funds shall be made in writing to the Chairperson of the Board by Board members or the Commissioner of Education stating the official purpose, time, place, names and titles of persons to be entertained, and the advance amount requested. OR amounts shall be advanced as approved by the Chairperson.
- 2. Within 5 working days after the expenditure of funds advanced for official representation purposes on island, or within 5 working days after completion of official travel, the official receiving OR funds shall submit to the Comptroller of PSS all receipts evidencing expenditure of the funds. The Comptroller shall determine whether the expenditures are within the authorized amounts and purpose and shall recommend to the Board Chairperson the approval or disapproval of the expenditure. Any amount not expended, or approved for expenditure shall be returned to the OR amount.
- 3. Request for reimbursement for OR experienses not advanced shall be made directly to the Comptroller. The request shall be accompanied by the documents and receipts showing the time, place, official purpose, names or individuals and their titles, and other information pertaining to the reimbursement. The Comptroller shall transmit these documents with his recommendation to the Chairperson of the Board for review and for approval or disapproval of reimbursement. Reimbursement of expenditures for items not granted advance authorization by the Chairperson is not guaranteed.
- 4. Official Representation funds shall not be used to pay for expenses while conducting routine business with PSS staff. OR funds shall not be used while on travel status except for official business with off-island non-PSS education officials or similar types of individuals.
- 5. Official Representation funds may also be used by Board staff to purchase refreshments for comsumption at public Board of Education meetings.

It is expected that Board members and the Commissioner shall exercise reasonable and prudent judgement in the use of OR funds. The Chairman of the Board of Education shall be the ultimate official to make the final decision with regard to the use of OR funds following the adopted Board policy on Official Representation funds.

#### PUBLIC NOTICE

PROPOSED RULES OF PROFESSIONAL CONDUCT FOR ENGINEERS, ARCHITECTS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

The Board of Professional Licensing pursuant to 1 CMC 9104 (a), hereby gives notice to the public of its intention to adopt proposed rules of professional conduct for engineers, architects, land surveyors and landscape architects. Contents of the rules are the following:

- 1. Competence
- 2. Conflict of Interest
- 3. Full Disclosure
- 4. Compliance with Laws
- 5. Professional Conduct

The public may submit written comments and/or recommendations regarding the proposed rules of professional conduct for engineers, architects, land surveyors and landscape architects during the thirty (30) day period following this date of publication in the Commonwealth Register. Such comments and/or recommendations should be sent to the Chairman of the Board of Professional Licensing as follows:

Chairman
Board of Professional Licensing
P.O. Box 449 CHRB
Saipan, MP 96950

Dated this 10th day of October, 1989.

RICHARD N. CODY, A.I.A.

Chairman

EFRAIN F. CAMACHO, P.E.

Secretary

#### NOTICIAN PUBLICO

REGULASION SIHA NI MA PROPOPONE PARA I PROFESSIONAT NA AREKLAMENTO PARA ENGINEERS, ARCHITECTS, LAND SURVEYORS YAN LANDSCAPE ARCHITECTS

I Board of Professional Licensing, sigun i 1 CMC 9104 (a), ha notiticia i publico nu i intensionna para hu adopta i mapropopone na regulasion siha para i professionat na areklamento para engineers, architects, land surveyors yan landscape architects. I regulasion siha para hu embrasa:

- 1. Capasidat
- 2. Interes siha ni ti debe
- 3. Ma publican i interes
- 4. Ma kumplea i lai
- 5. Professionat na areklamento

I publico sina ma submitte hinason niha yan osino recommendasion niha pot i mapropopone na regulasion siha para i professionat na engineers, architects, land surveyors yan landscape architects gi halom trenta (30) dias despues de este na noticia ma publica gi Commonwealth Register. I hinaso osino recommendasion debe de umanahanao guato para i Chairman i Board of Professional Licensing como:

Chairman Board of Professional Licensing P.O. Box 449 CHRB Saipan, MP 96950

Ma fitma gi dia 10th de Octobre, 1989.

RICHARD N. CODY, A.I.A

Chairman

EFRAIN F. CAMACHO, P.E.

Secretary

### RULES OF PROFESSIONAL CONDUCT

for

ENGINEERS, ARCHITECTS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

#### **PREAMBLE**

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following Rules of Professional Conduct shall be binding on every individual holding a certificate of registration and on all partnerships, associations, corporations, or joint ventures holding certificates of authorization and on all temporary permit holders authorized to offer or perform engineering, architecture, land surveying or landscape architecture in the Commonwealth of the Northern Mariana Islands.

These Rules of Professional Conduct promulgated herein are an exercise of the police power vested in the Board of Professional Licensing by virtue of the acts of the Commonwealth Legislature.

All persons, corporations and temporary permit holders registered under Public Law 4-53 are charged with having knowledge of the existence of these Rules or Professional Conduct, and shall be deemed to be familiar with their provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering, architecture, land surveying and landscape architecture is a privilege granted by the Commonwealth government, as opposed to a right.

#### PART 1 COMPETENCE

- 1.1 In the practice of engineering, architecture, land surveying and landscape architecture a sole practitioner, partnership, association, corporation or joint venture shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by registered Engineers, Architects, Land Surveyors and Landscape Architects of good standing, practicing in the same locality.
- In designing a project, an Engineer, Architect or Landscape Architect shall take into account all applicable federal, Commonwealth and municipal building laws and regulations. While the Engineer, Architect or Landscape Architect may rely on the advice or other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such laws and regulations, once having obtained such advice, an Engineer, Architect or Landscape Architect shall not knowingly design a project in violation of such laws and regulations.

- 1.3 An Engineer, Architect or Landscape Architect shall undertake to perform professional services only when he or she, together with those whom the Engineer, Architect, or Landscape Architect may engage as consultants, are qualified by education, training and experience in the specific technical areas involved.
- 1.4 No person shall be permitted to practice engineering, architecture, land surveying or landscape architecture if, in the Board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

#### PART 2 CONFLICT OF INTEREST

- An Engineer, Architect, Land Surveyor or Landscape
  Architect shall not accept compensation for his or her
  services from more than one party on a project unless the
  circumstances are fully disclosed to and agreed to by all
  interested parties.
- 2.2 An Engineer, Architect or Land Surveyor shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.
- 2.3 When acting as the interpreter of construction contract documents and the judge of contract performance, an Engineer, Architect or Landscape Architect shall render decisions impartially, favoring neither party to the contract.

#### PART 3 FULL DISCLOSURE

- An Engineer, Architect, Land Surveyor or Landscape
  Architect, making public statements on engineering,
  architectural, land surveying or landscape architectural
  questions, shall disclose when he or she is being
  compensated for making such statements.
- An Engineer, Architect, Land Surveyor or Landscape
  Architect shall accurately represent to a prospective or
  existing client or employer his or her qualifications and
  the scope of his or her responsibility in connection with
  work for which he or she is claiming credit.
- If, in the course of his or her work on a project, an Engineer, Architect, Land Surveyor or Landscape Architect becomes aware of a decision taken by his or her employer or client, against the Engineer's, Architect's, Land Surveyor's or Landscape Architect's advice, which violates applicable federal, Commonwealth or municipal building laws and regulations and which will, in the Engineer's, Architect's, Land Surveyor's or Landscape Architect's judgement, materially affect adversely the safety to the public of the finished project, the Engineer, Architect, Land Surveyor, or Landscape Architect shall,

- (A) report the decision to the Building Official or other public official charged with enforcement of the applicable federal, Commonwealth or municipal building laws and regulations,
- (B) refuse to consent to the decision, and
- (C) in circumstances where the Engineer, Architect, Land Surveyor or Landscape Architect reasonable believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project.

In the case of a termination in accordance with clause (C), the Engineer, Architect, Land Surveyor or Landscape Architect shall have no liability to his or her client or employer on account of such termination.

- An Engineer, Architect, Land Surveyor or Landscape
  Architect shall not deliberately make a materially false
  statement or fail deliberately to disclose a material
  fact requested in connection with his or her application
  for registration or renewal.
- An Engineer, Architect, Land Surveyor or Landscape
  Architect shall not assist the application for
  registration of a person known by the Engineer,
  Architect, Land Surveyor or Landscape Architect to be
  unqualified in respect to education, training, experience
  or character.
- An Engineer, Architect, Land Surveyor or Landscape
  Architect possessing knowledge of a violation of these
  Rules by another Engineer, Architect, Land Surveyor or
  Landscape Architect shall report such knowledge to the
  Board.

# PART IV COMPLIANCE WITH LAWS

- An Engineer, Architect, Land Surveyor or Landscape
  Architect shall not, in the conduct of his or her
  practice, knowingly violate any federal or Commonwealth
  criminal law.
- An Engineer, Architect, Land Surveyor or Landscape Architect shall neither offer nor make any payment or gift to a government official, whether elected or appointed, with the intent of influencing the official's judgment in connection with a prospective or existing project in which the Engineer, Architect, Land Surveyor or Landscape Architect is interested.
- An Engineer, Architect, Land Surveyor or Landscape
  Architect shall comply with the registration Laws and
  Regulations governing his or her professional practice in
  the Commonwealth.

#### PART V PROFESSIONAL CONDUCT

- 5.1 Each office maintained for the preparation of drawings, specifications, reports, or other professional work shall have a resident registered Engineer, Architect, Land Surveyor or Landscape Architect, as the case may be, regularly employed in that office having direct knowledge and supervisory control of such work.
- An Engineer, Architect, Land Surveyor or Landscape Architect shall not sign or seal drawings, specification, reports or other professional work for which he or she does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of such professional work prepared by the Engineer's, Architect's or Landscape Architect's consultants, registered under the professional registration Laws of the Commonwealth, the Engineer, Architect or Landscape Architect may sign or seal that portion of the professional work if the Engineer, Architect or Landscape Architect has reviewed such portion, has coordinated its preparation, and intends to be responsible for its adequacy.
- An Engineer, Architect, Land Surveyor or Landscape Architect shall neither offer nor make any gifts, other than gifts of nominal value, including, for example, reasonable entertainment and hospitality, with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the Engineer, Architect, Land Surveyor or Landscape Architect is interested.
- 5.4 An Engineer, Architect, Land Surveyor or Landscape Architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

----- T H E E N D -----

#### PUBLIC NOTICE OF PROPOSED ADOPTION

OF

#### MEDICAL ASSISTANCE FOR THE NEEDY PROGRAM (MEDICAID)

#### RULES AND REGULATIONS

Under the authority of Public Law 100-203 Section 4116, the Secretary of Health and Human Services approved the CNMI'S request to waive or modify any Title XIX Medicaid program requirements.

The Medicaid Division of the Department of Public Health and Environmental Services, pursuant to the authority of 1 CMC Sec. 9104, hereby gives notice to the public of its intention to adopt new rules and regulations for the medicaid program under the Approved Waiver Plan.

The proposed rules and regulations, published herewith, basically changed the current medicaid eligibility requirements by:

- 1) Removing all categorical eligibility requirements (an individual need no longer be aged, blind, disabled, or members of families with dependent children in order to be eligible for Medicaid); and
- 2) Extending medicaid elegibility to all individuals who meet the income and resource requirements stipulated in the Waiver Plan.
- 3) Under the Waiver Plan, this modified medicaid program will be called the Medical Assistance for the Needy (MAN) program.

Copies of the proposed rules and regulations may be obtained from the Medicaid Office, Department of Public Health and Environmental Services, Commonwealth Health Center, Saipan, MP 96950

All intersted persons will be given a reasonable opportunity to submit data, views, or arguments in writing, concerning the proposed regulations. Written comments must be submitted to the Medicaid Administrator, not later than the close of business thirty (30) calendar days following the date of publication of this Notice.

Dated this 37th day of September, 1989.

Dr. Jose T. Villagomez

Director, Dept. Public Health &

Environmental Services

#### NOTISIAN PUBLIKO

Ι

#### MANMAPROPONI SIHA NA TINILAIKA GI REGULASION

#### I PROGRAMAN MEDICAID (AYUDUN HINEMLO PARA I MANCHATSAGA)

Sigun i atoridat i lai publiko 100-203, Seksiona 4116, i Sekretarion Hinemlo yan Setbision Taotao ha aprueba i ginagao i CNMI na u ma modifika pat u ma deroga katkuet gi aregglamenton i programan Medicaid.

I Medicaid na Dibision gi Depattamenton Public Health yan Environmental Services, sigun i atoridat i 1 CMC Seksiona 9104, ha nanai notisia i publiko nu i intensiona na para u adopta mannuebo na aregglamento yan regulasion para i programan Medicaid sigun i ma aprueba na Waiver Plan.

I manmapropone na aregglamento yan regulasion ni mapublika guine, ha tulaika i regulasion ni mumamanda haye sina man eligible gi programan Medicaid tat komu i siguiente siha:

- 1) Ha na'suha i regulasion gi programan Medicaid ni mumamanda haye sina man eligible (i taotao ti nesasario pa'go na u amko', bachet, inutit, pat membron familia ni man gai famaguon menos de edat); yan
- 2) Ha ekstetende eligibilidad Medicaid para todos ni man podong ginananniha yan guinahan-niha ni ginagagao sigun gi maindika nu i Waiver Plan.
- 3) Sigun i Waiver Plan, este i mamodifika na programan Medicaid para u mafa'naan i ayudu para i Manatsaga na Manmalango (MAN).

Sina manule' hao kopian i manmapropoponi na regulasion gi ofisinan Medicaid gi Commonwealth Health Center, Saipan, MP 96950

Todos i maninteresao na petson mammananai opotunidat para u fanna'halon tinigge' na opinion, inatan, pat atgomento pot asunton i manmapropoponi na regulasion siha. I manmatugge' siha na rekomendasion debi di u fanmasatmiti guato gi Atministradot Medicaid antes di i mahuchom bisnis pot lo menos trenta (30) desde i fechan i publikasion este na notisia.

Dia: 27th gi Septiembre 1989

Dr. Jose T. Villagomez

Director, Dept. Public Health &

Environmental Services

#### OPERATIONAL PLAN

#### PART 1 SINGLE STATE AGENCY ORGANIZATION

# 1.1 <u>Delegation and Authority</u>

a) The Department of Public Health and Environmental Services is the Single State Agency designated to administer or supervise the administration of the Medicaid program under title XIX of the Social Security Act. (All references in this plan to "the Medicaid Agency" means the agency named in this paragraph.)

Attachment 1.1-A is a certification signed by the State Attorney General identifying the Single State Agency and citing the legal authority under which it administers or supervises administration of the program.

agency named in paragraph 1.1(a) responsibility for all determinations of eligibility for Medicaid under this plan.

# 1.2 Organization for Administration

- a) Attachment 1.2-A is an organization chart of the Single State Agency.
- b) Within the Single State Agency, the Division of Medicaid Services has been designated as the medical assistance unit. Attachment contains a description of the medical assistance unit and an organization chart of the unit.

# 1.3 Statewide Operation

The plan is in operation on a Statewide basis in accordance with all requirements under the approved waiver granted by the Secretary. The plan is State administered.

#### 1.4 Medical Referral Committee

Medicaid Agency utilizes the Medical Referral Committee to advise on matters pertaining to health and medical care services in the CNMI. The Committee authorizes approval for off-island care when required services are not available on-island.

is the policy of the CNMI Government, that when the medical facilities in the Commonwealth Health System are not able to provide adequate diagnostic evaluation or care of a patient's illness, the government is obligated to seek services outside the system for that patient.

off-island referrals, except emergencies, must All be authorized by the Medical Referral Committee. Medical Referral Committee is established pursuant to By-Laws of the Organized Medical Staff at the The Medical Referral Commonwealth Health Center. Committee was established to safeguard indiscriminate referrals of patients to medical facilities outside the Commonwealth health care system.

The Committee is composed of licensed physicians who review and evaluate the condition of referral candidates to decide whether the patient can be adequately treated within the Commonwealth health care system. the determination is made that the Commonwealth health system is inadequate, the Medical Committee then recommends that the patient be referred to the closest medical facility that can provide the needed treatment or services.

#### PART 2 COVERAGE AND ELIGIBILITY

# 2.1 Method of Processing Applications and Determining Eligibility

The Medicaid agency will process applications, make determinations and furnish Medicaid as follows:

applicant will be required to submit an application for medical assistance and to submit required supporting documents.

- b) Eligibility determination must be made within 60-days from the date the application is submitted to the Medicaid Agency.
- c) Eligibility coverage may begin as much as three months prior to the submission date of application if the Medicaid Agency determines that the applicant was otherwise eligible during that period.
- d) Eligibility coverage will be for up to one year. Changes of circumstances must be reported and redeterminations made where necessary. Recipients are required to re-apply and be redetermined annually.
- e) As a condition of eligibility, each legally able applicant and recipient will be required to assign his rights for release of information from agencies/organizations to the Medicaid Agency for purposes of making eligibility determination. Refusal to assign rights to the Medicaid Agency will result in the denial or termination of eligibility.
- f) SSI recipients are considered eligible upon filing an application for Medicaid.

# 2.2 Coverage and Conditions of Eligibility

Medicaid is available to the following individuals:

- a) all SSI cash-assisted recipients;
- b) low-income individuals who meet the current SSI income and resource levels and any applicable disregards and exemptions for the determination of eligibility, who:
  - i) are U.S. citizens, lawfully admitted permanent residents of the U.S., or permanently residing in the U.S. under color of law, and;
  - ii) establish residency in CNMI.

The same eligibility requirements will be made applicable to all individuals except for those who are receiving SSI. As a condition of eligibility, each legally able applicant and recipient must assign his rights to medical support or other third party payments to the Medicaid agency and must cooperate with the agency in obtaining medical support and payments.

The income and resources of parents, including stepparents, grandparents and other legal guardians with non-SSI children under age 18 will be counted if the child(ren) live(s) within the same household.

#### Spend-down

The Medicaid Agency allows spend-down for individuals whose income is in excess of the established income criteria, provided the amount in excess is less than the cost of medical services. The monthly spend-down amount in such cases will be the amount of income in excess of the monthly SSI income standard. The recipient will first have to incur the spend-down amount before Medicaid can pay for the difference.

# 2.3 Residence

Medicaid is furnished to eligible individuals who are residents of the Commonwealth.

#### PART 3 SERVICES: GENERAL PROVISIONS

#### 3.1 Amount, Duration, and Scope of Services

The following services, as described on the following pages, will be provided to those determined to be eligible for Medicaid:

a)	<u>Services</u>	<u>On-island</u>	Off-island*
	-Inpatient Hospital	x	x
	-Outpatient Hospital	X	X
	-Other Laboratory and X-Ray	X	X
	-Nursing Facility		X
	-Early and Periodic Screening	g,	
	Diagnosis and Treatment	X	X
	-Physicians' Services	X	X
	-Clinic Services	X	X

-Dental Services	X	X
-Physical Therapy	X	X
+-Prescribed Drugs & Eyeglasses	X	X
+-Home Health Services		X
-Transportation	X	Х

- \* Services provided off-island require <u>prior</u> authorization by the Medical Referral Committee.
- + Attachment 3.1-A specifies limitations for these services.

# b) Definitions

As noted in the preceeding list and in the following description, some services are only provided off-island. For all of these services the following definitions apply:

- i) "Patient" means an individual receiving needed professional services which are directed by a licensed practitioner of the healing arts towards the maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.
- ii) "Outpatient" means a patient who is receiving professional services at an organized medical facility, or distinct part of such a facility, which is not providing the patient with room and board and professional services on a continuous 24-hour-a-day basis.

# Inpatient Services On and Off-Island

All acute inpatient services, other than services in an institution for tuberculosis or mental disease, that are furnished in a hospital for the professional care and treatment of patients on a continuous 24-hour-a-day basis:

- Acute Medical
- Acute Surgical
- Acute Pediatric

- Acute Obstetric/Gynocology
- Intensive Care

These services must be provided in a facility that is certified as a Medicare/Medicaid provider.

# Outpatient Hospital Services On and Off-Island

Preventive, diagnostic, therapeutic, rehabilitative, or palliative services that are furnished on an outpatient basis by or under the direction of a physician or dentist in an institution that is licensed or formally approved as a hospital by an officially designated authority for State standard setting and meets the requirements for participation in Medicare. On-island, these services will be provided through formally organized and regularly scheduled hospital outpatient clinics operated by the CNMI government.

- These clinics are as follows:
  - i) General Medical Clinic
  - ii) General Surgical Clinic
  - iii) Pediatric Clinic
  - iv) Obstetric/Gynocology Clinic
  - v) Ear, Nose, and Throat Clinic
  - vi) Eve Clinic
  - vii) Dental Clinic
  - viii) Emergency Room Clinic

#### Other Laboratory and X-Ray Services Off-Island

Other laboratory and services X-ray technical laboratory professional and radiological services that are ordered and provided by or under the direction of a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by State law. Such services are provided in an office or similar facility other than a hospital outpatient department or clinic. They are provided by a laboratory that meets the requirments for participation in Medicare.

# Nursing Facility (NF) Services Off-Island

NF services are provided to individuals age 21 or older, other than services in an institution for tuberculosis or mental disease. These services are needed on a daily basis and are required to be provided on an impatient basis under 42 CFR Section 409.31-409.35 as post-hospital extended care services. NF services are provided by a facility or distinct part of a facility that is certified to meet the requirements for participation in Medicare, and are ordered by and provided under the direction of a physician.

# <u>Early and Periodic, Screening, Diagnosis and Treatment (ESPDT) Services</u>

EPSDT services are screening and diagnostic services to determine physical or mental defects in recipients under age 21 and health care, treatment, and other measures to correct or ameliorate any defects and conditions discovered. These services are provided through the well-baby clinic, school health, and physical examination clinics.

#### Family Planning Services

Family planning services and supplies are provided to individuals of child-bearing age.

#### Physicians' Services On and Off-Island

Physicians' services are services provided within the scope of practice of medicine or osteopathy as defined by State law and by or under the personal supervision of an individual licensed under State law to practice medicine or osteopathy.

#### Home Health Services Off-Island

Home health services are services provided to a patient on orders from a physician as part of a written plan of care that the physician reviews every 60 days. Such services are provided in the patient's temporary residence while authorized for off-island care and as part of a post-hospital care program,

before returning to his permanent residence, provided by his off-island physician and only as an alternative to more costly inpatient or skilled nursing services. These services include:

- i) Nursing services, as defined in the State Nursing Practice Act, that are provided on apart-time or intermittent basis by a public or private home health agency or organization which meets the requirements for participation in Medicare.
- ii) Home health aide services provided by a home health agency.
- iii) Medical supplies, equipment and appliances suitable for use in the patient's temporary off-island residence.
- iv) Physical therapy, occupational therapy, speech-therapy and audiology services provided by a home health agency or by a facility licensed by the state to provide medical rehabilitation services.

#### Clinic Services Off-Island

Preventive, diagnostic, therapeutic, rehabilitative or palliative nature services that are provided to outpatients by or under the direction of a physician or dentist by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients.

#### Dental Services On and Off-Island

- i) Diagnostic, preventive and corrrective procedures provided by or under the supervision of a dentist in the practice of dentistry, including treatment of:
  - the teeth and associated structures of the oral cavity;
  - disease, injury, or impairment that may affect the oral or
  - general health of the recipient.

- ii) Dental services not provided are as follows:
  - Orthodontics
  - Prosthetics
  - Root Canal
  - Oral Surgery

# Physical Therapy On and Off-Island

Services provided to a patient that are prescribed by a physician provided by or under the direction of a qualified physical therapist who is a graduate of a program of physical therapy approved by both the Council of Medical Education of the American Medical Association and the American Physical Therapy Association or its equivalent and licensed to practice by the State.

# Prescribed Drugs On and Off-Island

Drugs" "Prescribed means simple or compound substances or mixtures of substances prescribed for the cure, mitigation, or prevention of disease, or for health maintenance that are prescribed by a physician or other licensed practitioner of the healing arts within the scope of his professional practice in accordance with the State Medical Practice Act. Such drugs must

be dispensed by licensed, authorized pharmacists or practitioners on a written prescription that is recorded and maintained in the pharmacist's or practitioner's record in accordance with the State Medical Practice Act.

### Transportation

Commercial air transportation cost within CNMI to and from the Commonwealth Health Center and commercial air transportation to and from facilities outside the CNMI will be provided by the Medicaid Agency. Such airfare costs will be provided to patients and their authorized by the Medical Referral escorts as Committee in accordance with its policies and procedures for necessary medical care not available in the CNMI. Ground transportation will be provided by the Northern Marianas Liaison Office on Guam or Honolulu, a licensed ambulance service. or by

Ambulance services within the CNMI are provided by the Department of Public Safety in cases of emergencies.

# 3.2 Coordination of Medicaid with Medicare Part B

The Medicaid agency makes the entire range of benefits under Part B of Title XVIII available as part of the plan to certain eligible individuals under a buy-in agreement, through payment of the premium charges on behalf of such individuals, by meeting all or part of the cost of the deductible cost sharing or similiar charges under Part B. Regulation requirements under 42 CFR 431.625 will be met.

# 3.3 Cost Sharing For Medicare Beneficiaries

For Medicaid eligible individuals enrolled in Medicare, the Medicaid Agency pays the following costs:

- (1) Premium under Medicare Part B.
- (2) Deductible and coinsurance amounts under Medicare Part A and Part B.

#### PART 4: GENERAL PROGRAM ADMINISTRATION

#### 4.1 Method of Administration

The Medicaid agency employs methods of administration acceptable to the Secretary, as described in this plan, that are necessary for the proper and efficient operation of the program.

# 4.2 <u>Hearings for Applicants and Recipients</u>

The Medicaid Agency has a system of hearings that meets all the requirements of 42 CFR Part 431, Subpart E.

#### 4.3 Safequarding Information on Applicants and Recipients

The Medicaid Agency assures compliance on safequarding information on applicants and recipients through a system that restricts the use or disclosure of information concerning applicants or recipients to purposes directly related to the Medicaid program administration.

### 4.4 Reports

The Medicaid Agency will submit all reports required by the Secretary, and will follow instructions with regards to the form and content of those reports and will comply with the provisions that the Secretary finds necessary to verify and assure the correctness of the reports.

# 4.5 Maintenance of Records

The Medicaid Agency maintains or supervises the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of medical assistance, and administrative costs, and statistical, fiscal and other records necessary for reporting and accountability, and retains these records for the period required by the Secretary and described in 6.1

# 4.6 Availability of Agency Program Manuals

The Medicaid Agency assures access to program manuals, rules and policies, including this plan, by individuals outside the Medicaid Agency. Access is available at the agency's office and through other entities as determined appropriate by the agency.

#### 4.7 Required Provider Agreement

The Medicaid Agency, through the Medical Referral program, maintains agreements with off-island providers furnishing services under the plan in which the provider agrees to:

- a) Keep any record necessary to disclose the extent of service the provider furnishes to patients;
- b) On request, furnish to the Medicaid Agency or the Secretary, any information maintained under (a) of this section and any information regarding payments claimed by the provider for furnishing services under this plan;
- Maintain the confidentiality of patient information for other than Medicare or program administrative purposes;

- d) Not discriminate against any individual seeking services under this plan, on the basis of race, sex, religion, color, national origin, or handicap; and
- e) Not seek additional payments from patients beyond those allowed under this plan

# 4.8 <u>Relation with Vocational Rehabilitation Agencies and Title V</u>

#### Grantees

The Medicaid Agency coordinates its Medicaid program activities with other agency activities including Title V program activities and with activities of the State Vocational Rehabilitation Agency.

Attachments 4.8-A and 4.8-A-1 are the cooperative agreements between the Medicaid Agency and the vocational rehabilitation agencies.

# 4.9 Payment For Services

The Commonwealth Health Center on Saipan is the single, primary provider of all medical services, both inpatient and outpatient, throughout the CNMI. Established rates for outpatient services are nominal compared to operational costs.

These established rates do not exceed combined payments the provider would get from the beneficiaries and carriers or intermediaries for comparable services under comparable circumstances under Medicare. The payments made by the Medicaid Agency for impatient services will be paid using Medicare principles of cost reimbursement. The rates are applicable to all patients including those with third party coverage.

When a patient has medical needs which cannot be provided for by the government system, off-island providers will be utilized. The Medicaid Agency will attempt to negotiate all-inclusive per diem rates or contract rates for specific services with these providers.

# 4.10 Third Party Liability

The Medicaid Agency assures, to the extent possible, the identification of a liable third party to pay for services under the plan and for payment of claims involving third parties by:

- a) inquiring during the application/interview process about the probable existence of a liable third party;
- b) requiring, as a condition of eligibility, that each legally able applicant and recipient assign his rights to medical support or other third party payments to the Medicaid Agency and cooperate with the agency in obtaining medical support and payments;
- c) paying claims involving probable third party liability as follows:
  - i) If the agency has established the probable existence of third party liability at the time the claim is filed, the agency must reject the claim and return it to the provider for a determination on the amount of liability. When the amount of liability is determined, the agency must then pay the claim to the extent that payment allowed under the agency's payment schedule exceeds the amount of the third party's payment.
  - ii) If the probable existence of third party liability cannot be established or third party benefits are not available to pay the recipient's medical expenses at the time the claim is filed, the agency must pay the full amount allowed under the agency's payment schedule.
  - iii) If after a claim has been paid, the agency learns of the existence of a third party resource, the agency must seek reimbursement from the third party within 60-days after the end of the month it learned of the existence of a liable third party or benefits become available.

iv) The Medicaid Agency establishes a cumulative threshold amount of not less than \$25.00 for seeking reimbursement. It is not considered cost effective to seek reimbursement below this amount in any given month.

#### PART 5 PERSONNEL ADMINISTRATION

#### 5.1 Standards of Personnel Administration

The Civil Service Commission Act under Public Iaw 1-9, establishes a Personnel Service System in the Executive Branch of Government of the Commonwealth of the Northern Mariana Islands. The comprehensive Personnel Service System's Rules and Regulations which became effective on November 25, 1983, established a system for personnel administration based on merit principles and generally accepted methods governing the classification of positions and the employment, conduct, movement and separation of public officials and employees.

#### PART 6 FINANCIAL ADMINISTRATION

#### 36.1 Fiscal Policies and Accountability

The Medicaid Agency maintains an accounting system and supporting fiscal records to assure that claims for Federal funds are in accord with applicable Federal requirements. Records are retained for 3-years from the date of submission of a final expenditure report and will be retained beyond the 3-year period only if audit findings, litigation, claim negotiations, or other actions involving the records have not been resolved. This applies to all financial and programmatic records, supporting documents, statistical records and other records related to the grant.

#### 6.2 Access to Records

The Medicaid Agency assures that HHS, the Comptroller General of the U.S., and other cognisant Federal agencies shall have access to books and all documents related to the HHS grant award.

#### 6.3 Cost Allocation

The Medicaid Agency will claim Federal Financial Participation (FFP) for Medicaid costs in accordance with its approved cost allocation plan.

#### PART 7 GENERAL PROVISIONS

#### 7.1 Plan Amendments

- a) CNMI may, on its own initiative, request plan changes at any time, as long as the provisions of Title 19 Section 1902(j) and the Secretary's waiver are complied with.
- b) Changes to this operational plan which are not consistent with the Secretary's waiver shall be submitted to the Secretary of DHHS as a modification to the waiver, rather than as a state plan amendment.
- c) This document constitutes the total plan for the operation of the Medicaid program in the Commonwealth of the Northern Mariana Islands. Any Federal requirements applicable to the operation of Title XIX of the Social Security Act in other jurisdictions are not applicable to the plan unless they are specifically included.

#### 7.2 Nondiscrimination

The Medicaid Agency assures that no individual shall be subjected to discrimination under this plan on the grounds of race, color, sex, national origin, religion or handicap. Attachment 7.2-A describes methods of administration the agency uses in assuring compliance with the Title VI regulations.

#### 7.3 Commonwealth Governor's Review

The Medicaid Agency will provide the Office of the Governor with the opportunity to review amendments, any new state plan and subsequent amendments, and long-range program planning projections or other periodic reports thereon. Any comments made will be transmitted to the Health Care Financing Administration with such documents.

## 7.4 <u>Drug-Free Workplace Certification</u>

The Medicaid Agency certifies that it will maintain a drug-free workplace as a condition for federal grant application. Attachment 7.4-A describes the methods of how it plans to provide a drug-free workplace.

PUBLIC NOTICE OF PROPOSED AMENDMENTS
TO REGULATIONS PROVIDING FOR DISTRIBUTION
OF HEADNOTE 3(A) PRODUCTION UNDER THE
LIMITED WAIVER PROVIDED BY ADMINISTRATIVE
AGREEMENT

The Department of Finance, pursuant to the authority of 1 CMC § 2557 hereby gives notice to the public of its intention to amend the current regulations providing for distribution of Headnote 3(a) Production under the limited waiver provided by Administrative Agreement published in Volume 7, No. 7 edition of the Commonwealth Register, 1985.

All interested persons will be given a reasonable opportunity to submit data, views, and other comments in writing concerning the proposed amendments to these regulations. Written comments must be submitted to the Director of Finance not later than the close of business thirty (30) calendar days following the date of publication of this notice.

DATED this 12th day of October, 1989.

ELOY S. INOS

Director of Finance

#### NOTISIAN PARA I PUBLIKO POT PARA U MAAMENDA I REGULASION NI MUNA'E DISTRIBUSION I HEADNOTE 3(A) NA PRODUCSION

I Dipattamenton Fainansiat, segun gi autoridad i 1 CMC § 2557 hananahe i publico noticia pot i intensionna para u amenda i presente na regulasion ni hana guahahaye para distribuasion pot i Headnote 3(a) na Producsion.

Todu man interesante na petsonas man ma nana' i rasonabble na apottunidad para u na'halom tinige'niha, atgumenton-niha yan sinenten-niha pot este na proposito. Todo testimonio pot este na asunto debe de umana' halom guatu gi Direktot i Fainansiat pot mas atrasao 30 dias despues de i fechan este na noticia.

ELOY S. INOS

Direkto Fainansiat

EECHA.

# PROPOSED REGULATIONS PROVIDING FOR DISTRIBUTION OF HEADNOTE 3(a) PRODUCTION UNDER THE LIMITED WAIVER PROVIDED BY ADMINISTRATIVE AGREEMENT

#### ARTICLE I. GENERAL PROVISIONS

- Section 101. Purpose. These regulations shall provide for a division among CNMI sweater manufacturers of the import limit placed by the United States upon cotton, wool and man-made fiber sweaters in Categories 345, 445, 446, 645 and 646 assembled in the CNMI from a minimum of four major sweater parcels which originate in a country whose sweater exports to the United States are subject to quota.
- <u>Section 102.</u> Findings. The following administrative findings constitute the basis for these regulations:
- (a) On January 9, 1978 upon the inception of the government of the Commonwealth of the Northern Mariana Islands General Headnote 3(a) to the Tariff Schedules of the United States, 19 U.S.C. 1202, provided a country of origin rule specifically for insular possessions of the United States. That rule provides that an article is a product of the insular possessions if it does not contain foreign materials exceeding 50% of the total appraisal value of the product. There are no quota restrictions or duties applicable to insular possessions.
- (b) On February 22, 1983 the United States Customs Service recognized that Headnote 3(a) applied to the Commonwealth of the Northern Mariana Islands under Section 603(a) of the Covenant which provides the same treatment for imports from the Northern Mariana Islands into the United States as imports from Guam into the United States.
- (c) Based upon that decision, certain corporations located sweater factories in the Commonwealth and began assembly operations under Headnote 3(a).
- (d) On August 3, 1984 the Customs Service published interim regulations governing the importation of textiles and textile products into the United States (T.D. 84-171). These regulations which applied to insular possessions, provide that articles which consist of materials which originated in a foreign country shall be considered as

products of an insular possession only if the article has been substantially transformed by means of a substantial manufacturing or processing operation into a new and different article of commerce with a name, character or use distinct from the article or material from which it was so transferred. Essentially, assembly operations which contribute 50% to the final appraisal value of an article will no longer qualify the article as originating in the Commonwealth of the Northern Mariana Islands.

- (e) As a result of the interim regulations, the sweater manufacturers have been unable to import sweaters into the United States Customs Territory, thereby threatening the existence of such an industry in the Commonwealth.
- (f) On April 4, 1985 the Customs Service adopted the interim regulations, with minor amendments, as a final rule (T.D. 85-38).
- (g) As a result of many months of discussion with the Committee for the Implementation of Textile Agreements (CITA) and the Office of the Unites States Trade Representative an administrative arrangement for the waiver of the regulations for 70,000 dozen sweaters annually was agreed to by the United States government and the government of the Northern Mariana Islands on January 30, 1985. A directive from the Chairman of CITA to the Commissioner of Customs established an import limit and certification requirements to be effective on April 15, 1985. However, the annual period commenced on November 1, 1984.
- (h) Emergency Regulations were promulgated and regulations were proposed to distribute this quota equitably among sweater manufacturers in the Commonwealth on or about June 6, 1985.
- (i) On November 4, 1988 a directive was issued to the Commissioner of Customs establishing a limit for cotton, wool and man-made fiber sweaters in categories 345, 445, 446, 645 and 646 for the period November 1, 1988 through October 31, 1989 which restricted imports from the Commonwealth to the United States to 87,540 dozens with a wool sublimit of 13,131 dozens.
- (j) In both 1988 and thus far in 1989 some of the companies eligible to manufacture and import the sweaters covered by the above quota restrictions were unable to use their quota and as a result of the underutilization of this quota: (a) the Commonwealth is in danger of having the quota further reduced, and; (b) the Commonwealth Government has lost revenues.

- (k) It is in the interest of the sweater industry in the Commonwealth as well as in the government's interest that the sweater quota be used and that it not be reduced in the future. As a result these regulations are proposed to encourage the utilization of the entire quota and to insure that those companies who are most capable of producing will be allocated a fair share of the quota.
- (1) It is necessary to establish a system for the distribution of the waiver among the factories affected.

#### ARTICLE II. WAIVER CERTIFICATE

Section 201. Waiver Certificate. The Chief of the Division of Customs shall issue a waiver certificate to applicants who meet the criteria set forth in Section 202 which will entitle the holder to that share of the waiver to which it is entitled pursuant to Section 203. The certificate shall specify the number of sweaters in the share.

#### Section 202. Eligibility for Certificate.

- (a) An applicant is eligible for a waiver certificate upon proof of:
  - (1) incorporation in the Commonwealth of the Northern Mariana Islands prior to November 1, 1989;
  - (2) a valid license to conduct a sweater manufacturing business prior to November 1, 1989;
  - (3) CNMI certificates of origin evidencing sweater production in excess of 5,000 dozen during the period November 1, 1988 to October 31, 1989. Said sweaters shall be either (a) waiver certificate sweaters; (b) sweaters knit entirely within the Commonwealth, or; (c) cut and sewn sweaters assembled in the Commonwealth;
  - (4) full time employment of the percentage required by CNMI law or regulations of workers in garment manufacturing operation who are either United States citizens, certificate of identity holders, Public Law No. 5-11 permanent residents or Trust Territory citizens;

- failure to maintain this minimum requirement at any time during the year shall cause a certificate to be suspended until proof of compliance.
- (b) Application for a waiver certificate shall be made before November 30, 1989.
- (c) Certificates shall be awarded prior to December 15, 1989 and shall be retroactive to November 1, 1989.
- <u>Section 203.</u> <u>Division of Quota Shares.</u> The division of the existing 87,540 dozen quota and its wool sublimit of 13,131 dozens shall be based upon the number of full-time employees employed by each qualified applicant on October 31, 1989.
- Example: If on October 31, 1989 Company A has 100 full time employees and Company B has 900 full time employees, then Company A will receive a 10% share or 8,754 dozens of the quota and a 1,313 dozen share of its wool sublimit while Company B will receive the remainder.
- Section 204. Duration of Certificate. A waiver certificate shall be valid for one year. The Chief shall reissue certificates annually in October. The Director may amend the eligibility requirements in Section 202 in his discretion.
- Section 205. Non-Assignable Certificates. certificates cannot be assigned, sold, or transferred by the holder to any other person or entity.

#### Section 206. Change in Pro Rata Shares.

- (a) Upon any decrease in the waiver gipta by the United States, the effect of the decrease shall be shared equally among each of the holders of waiver certificates based upon each manufacturer's proportionate share of the quota.
- If the Chief determines upon a hearing that a company cannot be reasonably expected to utilize its entire waiver within the year, the share of the company will be reassigned in proportionate shares to the remaining companies which can reasonably be expected to utilize the remainder.
- If it appears to any certificate that the manufacturer will be unable to produce a sufficient number of sweaters in order to utilize its entire waiver within the year,

the holder shall surrender to the Chief the expected remainder prior to July 1. If a company fails to utilize more than 10% of its waiver in a year, the unused portion shall be deducted from its share for the subsequent year. Any surrendered share of the quota shall be distributed among other certificate holders who can be reasonably expected to utilize the surrendered share based upon each manufacture's proportionate share of the original quota.

Section 207. Retroactive Effect. The waiver certificates issued pursuant to these regulations shall be retroactive to November 1, 1989 and shall expire on October 31, 1990. All shipments already documented by certificates of origin which entered the United States as part of the 87,540 dozen waiver shall be deducted against the quota of the certificate holders.

# Section 208. Increase of Waiver.

(a) The division of shares of any waiver in excess of the 87,540 dozen agreement shall be made based upon each applicants proportionate share of the quota.

Example: If Company X has 80% of the waiver quota and the quota is increase by 10,000 dozens, then Company X would automatically receive 8,000 dozens as its proportionate share of the increase.

Section 209. Previous Regulations. These proposed regulations are to amend and modify Articles I and II only of previous regulations issued on this topic and as originally proposed on June 6, 1985 and adopted on July 19, 1985 including the amendments adopted on August 15, 1986.

Certified by:

Eloy S. Inos Director of Finance

Date of Filing with the Registrar

Registrar of Corporations

# **PUBLIC NOTICE**

# **Adopted Rules and Regulations**

# CNMI Public School System

The Board of Education of the Northern Mariana Islands in accordance with Public Law 6-10 has adopted for the CNMI Public School System rules and regulations for the following subject area:

- 1. Housing Policy
- 2. Graduation Policy
- 3. Drug-Free Policy
- 4. PSPS Rules & Regulation Amendment

Copy of the rules and regulations was published on September 15, 1989 in the Commonwealth Register. During the designated period for public comment, no comments were received by the Board of Education concerning the proposed policy. The policy is adopted as originally promulgated.

hato

Juan B. Tudela, Chairman, Board of Education

## **PUBLIC NOTICE**

# **Adopted Rules and Regulations**

# **CNMI Public School System**

Sigun gi lain pupbliku Numiru 1-10, i Board of Education i Northern Marianas ma adopta i Areklamento yan Regulasion siha ni man ma lista:

- 1. Arekglomento pot Guam
- 2. Arekglamentun Graduation
- 3. Drug-Free na arekglametu siha
- 4. Arekglamentu yan maamenda siha gi PSPS na arekglamentu siha

I maadopta na arekglamentu siha yan amendasion, ma publika gi Siepteimbre dia kinse (September 15, 1989), Volume II, Number 9. Duranten i treta dias nu ma publicka, taya upinion mana halum pot este siha na aregklametu. I aregklamentu siha ma adopta ya effectibu dies (10) dias dispues di Octobre dia 15, 1989.

Fochs

Mr. Juan T. Tudela, Chairman,

Board of Education

#### ARONGORONGOL ARAMAS TOWLAP

# Fféérúl Ómmwóghútúl Allégh

# **CNMI Public School System**

Board of Education ya llól téél falúw kka Northern Marianas nge sángi Alléghúl Towlap ye 6-10 iye aa fféérló bwe mwóghútúghútúl Alléghúl CNMI Public School System ikka e táttáletiw:

- 1. Alléghúl Lmweyimw
- 2. Alléghúl Graduation
- 3. Alléghúl Drug-Free
- 4. Ssiiwelil Mwóghútúghútúlú Alléghúl PSS

Koopiyaal mwóghútúghútúl Allégh kkaal nge e arrongowow wóól Septembre 15, 1989 mellól Commonwealth Register. Llól ráálil kkela aa atootoowow bwe aramas towlap rebwe iraalong tipeer, nge esóór mille Board of Education re resibiiy reel Allégh ye efféér. Allégh yeel nge aa fféérló sángi miliwe mesaammwal.

Moram, rál, ráágh

t.⊿uan B. Tudela, Chairman-il

Board of Education