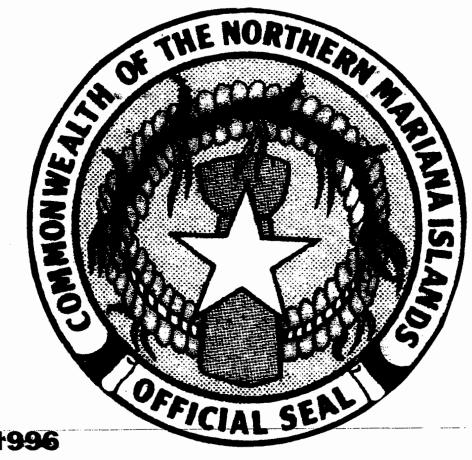
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN, MARIANA ISLANDS

VOLUME 18 NUMBER 07



JULY 15, 1996

# **COMMONWEALTH**

REGISTER

#### COMMONWEALTH REGISTER VOLUME 18 NUMBER 07 JULY 15, 1996

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#### DEPARTMENT OF LABOR AND IMMIGRATION

### AMENDED PUBLIC NOTICE NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

EMERGENCY: In an effort to facilitate the hiring of Philippine citizens for the Commonwealth nonresident workforce, it has become necessary to adopt a number of regulations which have been previously published for comment in the Commonwealth Register. As a result of the lifting of the moratorium on the deployment of Philippine citizen workers to the CNMI, the CNMI government has agreed to undertake a number of measures to protect the welfare of not only workers from the Philippines, but for all nonresident workers. These regulations have already been published for comment in the Commonwealth Register as required by 1 CMC Div. 9 §9104, but these same regulations will be published as being formally adopted as specified under 1 CMC Div. 9 §9102 in the next Commonwealth Register. The Department finds that the public interest requires an adoption to the regulations upon fewer than thirty (30) days notice.

The Secretary of the Department of Labor and Immigration hereby gives notice of the adoption of amendments to the Alien Labor Rules and Regulations which govern the processing labor application of citizens of the Republic of the Philippines and amends other processing requirements applicable to all nonresident workers. The first set of regulations were previously published as Emergency and Proposed Amendments to the Regulations in the Commonwealth Register at Volume 16, No. 10, pages 12451 to 12454, on October 15, 1994. The second set of regulations were published as Proposed Amendments to the Alien Labor Rules and Regulations in the Commonwealth Register at Volume 17, No. 12, pages 13881 to 13884 and 13887 to 13888, on December 15, 1995.

CONTENTS:

(SEE ATTACHED REGULATIONS)

AUTHORITY: The Secretary of Labor and Immigration is authorized to promulgate and adopt regulations pursuant to Executive Order Section 301, 94-3 Reorganization Plan No. 2, 3 CMC Div. 4 §4424(a) 1), and 1 CMC Div. 9 §9104.

THOMAS O. SABLAN, SECRETARY

DEFARTMENT OF LABOR AND IMMIGRATION

Concurred by:

F<del>ROILAN</del> C GOVERNOR

SOLEDAD B. SASAMOTO

FILED BY REGISTRAR OF CORPORATIONS

DATE

DAIE

#### DEPARTMENT OF LABOR AND IMMIGRATION

#### AMENDACION POT I NOTISIAN PUBLIKO POT PARA ADAPTAN (EMERGENCY REGULATION)

I animo ni para u ma'na chaddek I mangone' empliao ginen Philipinas para I Commonwealth, nisisario para u ma adapta nos kuantos na regulasion nu I hagas ma publika gi Commonwealth Register para u ma ina ni publiko ya u fan halom recommendasion niha, kummo resuttan I mababan I para man mangonne' empliao ginen Philipinas para Marianas, I gobetnamenton I Commonwealth ha aksepta para u chuli'e nos kuantos manera para u prutehi yan u guatdia todos empliao ginen hiyong Marianas, ti nisisario ginen iya Philipinas ha. I regulasion esta ma publika para u manafan manuggo' I publiku gi Commonwealth Register segun I ginagagao nu I lai(1 CMC Division 9, subsection 9104), lao parehu na regulasion para u ma publika kumu ma adapta segun I ginagagao nu I lai (1 CMC Div. 9 subsection 9102) gi maimaila na publikasion I Commonwealth Register. I Depattamento ha li'e na para interest I publiko nesesario este na regulasion u ma adapta gi menus ki trenta dias (30 days).

I Secretarian I Depattamenton Labor yan I Immigration ha na na'e notisia para I ma adapta este I amendasion para I (Alien Labor Rules and Regulation) pot I para ma choguin I applicasion empliao ginen taotao hiyong Marianas enteramenti. I finenena' na regulasion ni hagas ma publika kumo emergency yan ma propoponi na amendasion para I regulasion gi Commonwealth Register Volume 16 no. 10 pages 12451-12454 on October 15, 1994. I segundo na regulasion ma publika kumo ma propoponi para amendasion I Alien Rules and Regulations gi Commonwealth Register Volume 17 no. 12 pages 13881-13884 and 13887-13888 on December 15, 1995.

I Secretarion I Labor yan Immigration ma autorisa para u publika uan adapta regulasion segun gi (Executive Order Section 301, 94-3 reorganization plan no. 2, 3 CMC Div. 4 5 4424 (A) (1), and 1 CMC/Div. 9 §  $92\sqrt{4}$ ).

THOMAS O. SABLAN, SECRETARY

DEPARTMENT OF LABOR AND IMMIGRATION

Condurred by:

FROILAN C. TENORIO

GOVERNOR

SOLEDAD B. SASAMOTO

FILED BY REGISTRAR OF CORPORATIONS

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#### CONTENTS:

ADOPTED AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS as new subsections II (A) (2) (d), as published in the Commonwealth Register, Volume 16, No. 10, pages 12451 to 12454 (October 15, 1994).

- d. <u>Processing of Labor Certificates for Philippine Citizens.</u>
  Prior to the processing of a Labor application by the Division of Labor, applicants who are citizens of the Republic of the Philippines must comply with the following requirements:
  - 1. Prior to the submission of a new, renewal, or transfer labor application to CNMI Division of Labor, the employment contract and supporting documents must be submitted to the Philippine Labor Office, within the Philippine Consulate for review. Upon completion of the review, the Philippine Labor Office will return the application to the employer for submission to CNMI Labor.
  - 2. CNMI Labor will not accept an application for a Philippine citizen without the following:
    - a. Proof that the employment contract and supporting documents were reviewed by the Philippine Labor Office; and
    - b. For only new applications, a declaration of the employer that a copy of the entire application package being submitted to CNMI Labor, was also sent to the CNMI Manila Liaison Office (MLO) or proof that the application was already reviewed by the MLO.
  - 3. The CNMI Manila Liaison Office will send its recommendations to CNMI Labor and CNMI Labor will consider these findings during the review process of the applications.
  - 4. Renewal and transfer applications do not need to be sent to the CNMI Manila Liaison Office for their review.

ADOPTED AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS, published in the <u>Commonwealth Register</u> at Volume 17, No. 12, pages 13881 to 13884 and 13887 to 13888 (December 15, 1995).

# I. Former subsection II(B)(5) is repealed in its entirety and replaced with the following:

After receiving notice from the Director of Labor or his designee that the application for a labor certificate and the employment contract have been approved, the employer shall deliver within thirty (30) days to the Director of Labor or his designee a bond, written third-party guaranty, or deposit of funds into an approved escrow account, or combination thereof.

- 1) The minimum amount of the bond shall be equal to the cost of one-way transportation between the point of hire as specified in the employment contract and the point of employment within the Commonwealth, three (3) months salary as specified in the contract of employment, up to a maximum of \$3,000 per employee, and at least \$3,000 for medical expenses including the cost of medical referral, embalming, and transportation of the body back to the country of origin in the event of The financial assurances of the bond or death. surety are to be in addition to, not a substitute for, any other financial guarantees currently required or which may be required in the future by the Commonwealth.
- 2) Any bond, written third party guarantee, or deposit of funds shall, upon demand and execution, be payable to the Director of Labor only for payment of outstanding medical charges due to the Commonwealth Health Center, the repatriation of a nonresident worker to his or her country of origin, and the payment, in whole or part, of wages due the employee from the employer under the final order of a court or an order by an administrative hearing officer that has not been appealed.
- 3) The written terms and conditions of all bonds, guarantees, or escrow deposits shall specify the following:
  - i. That the bond, guarantee, or escrow deposit shall be subject to demand and execution by the Director of Labor, or where authorized by a court order or administrative hearing order.
  - ii. that the bond, guarantee, or escrow deposit shall be held liable for any unpaid

wages or costs, repatriation, or medical costs determined by a court or administrative hearing officer to be based on or arising from actions or inactions by the employer during the period of employment specified in the contract of employment between the nonresident worker and the employer; and

iii. that the bond, guarantee, or escrow deposit shall be subject to demand and execution for a period no shorter than the period of employment specified in the employment contract plus the statutory period for filing a claim for unpaid wages (as codified under 4 CMC Div. 9 § 9246), plus 30 days;

iv. that upon receipt of a "Notice of Potential Claim", the period for filing a claim shall be tolled; and

v. that no changes in the terms and conditions of the bond, guaranty, or escrow deposit shall be effective unless and until it is approved in writing by the Director of the Division of Labor or his designee; and

- Within ten (10) days of receipt of, or within five 4) (5) days of determining that the Department of Labor and Immigration has administrative jurisdiction over, a complaint, whichever is later, alleging an unlawful termination or contract or the required under failure pay wages Nonresident Worker Act or the and hour waqe statutes and regulations of the Commonwealth, the Director of the Division of Labor or his designee shall transmit a "Notice of Potential Claim" to the bonding company, third-party quarantor, administrator of the approved escrow account.
- Within ten (10) business days of receipt of a "Notice of Potential Claim", the bonding company, third-party guarantor, or administrator of the approved or managed escrow account will provide written evidence to the Director of Labor that sufficient funds are available and have been reserved to satisfy the bond, guarantee, or escrow account deposit made in connection with the 2employment of a complaining nonresident worker.
- 6) Payment of bond, guarantee, or escrow deposit funds necessary to satisfy any final order of a court or administrative hearing officer for unpaid wages

and/or the costs of repatriation, shall be made to the Director of Labor within 10 business days of the receipt of a "Notice of Claim".

In the absence of written evidence of payment by an employer, a "Notice of Claim" shall be sent to the bonding company, third party guarantor, or administrator of the approved escrow account within twenty-five (25) business days following issuance of a final order by a court or an administrative hearing officer, against the employer awarding unpaid wages and/or costs or repatriation in favor of the nonresident worker.

- 7) Within ten (10) business days of the deposit of the bond, guarantee, or escrow with the Director of Labor, the Director of Labor shall remit to the foreign employee or authorized service provider any amounts deposited in favor of the party.
- 8) Actual written notice must be given to the Director of Labor upon any attempt to cancel a bond, terminate a guaranty, or escrow deposit. Guarantors failing to give proper notice to the Division of Labor at least five (5) days before the anticipated cancellation will be held accountable for any claims made against the bond, guaranty, or escrow deposit.
- 9) Any employer whose bond, guaranty, or escrow deposit is cancelled at any time prior to the expiration of an employee's employment contract covered by the bond, guaranty, or escrow deposit, will be subject to sanctions provided for in the Nonresident Worker's Act and immediate cancellation of all permits issued to that employer.

#### II. A new subsection II(D)(9) is added as follows:

Any employers who are determined by the Director of Labor or his designee to be unable to meet forecasted financial obligations to employees shall result in the denial of all pending applications.

#### III. A new subsection II(E) is added as follows:

# MINIMUM FINANCIAL REQUIREMENTS FOR NON-BUSINESS EMPLOYERS.

a. Non-business employers are defined as those employers who may employ nonresident workers, but have not obtained a business license. Nonresident workers employed by non-business employers include, but are not limited to the following job

classifications: farmers for subsistence farming and domestic helpers.

b. Non-business employers must meet the following minimum financial guidelines:

No.	of persons	in	household	Gross Monthly Income
1				\$1,583
2				\$1,833
3				\$2,033
4				\$2,183
5			<i></i>	\$2,333

For every additional person living in the household, add another \$150 to the minimum amount required.

- c. Any non-business employers failing to meet the financial minimum guidelines stated in these regulations shall be denied approval of any permits submitted to the Division of Labor.
- d. Any persons in the household who wish to have their income considered for purposes of meeting the minimum financial guidelines must execute the nonresident worker's employment agreement and become a co-employer of record or execute an affidavit assuming joint and several liability of any claims brought about by the nonresident worker arising from the period of the employment.



GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

#### PUBLIC NOTICE

# PROPOSED RULES AND REGULATIONS GOVERNING THE SCREENING REQUIREMENTS OF ALIEN EMPLOYEES

The Secretary of the Department of Public Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC §2603 (a) and (b) to maintain and improve health conditions and minimize and control communicable disease in the CNMI, proposes these Rules and Regulations governing the screening requirements of Alien Employees.

It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CMC §9104, in proposing these Rules and Regulations. Copies of the proposed Rules and Regulations may be obtained from the Office of the Secretary of Public Health located on the ground floor of the Commonwealth Health Center. Comments on the proposed Rules and Regulations may be sent to the Office of the Secretary of Public Health, Department of Public Health, P.O. Box 409 CK, Saipan, MP 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

Certified By:

DR.Y&AMU √. ABRAHAM

Secretary

Department of Public Health

Filed By:

SOLEDAD B. SASAMOTO

Registrar of Corporations

Received by:

DONNA J. CRUZ

Governor's Office

7-11-96

Date

Date

Date

COMMONWEALTH REGISTER VOLUME 18 NUMBER 07 JULY 15, 1996

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### COMMONWEALTH HEALTH CENTER

#### OFFICE OF THE SECRETARY

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

#### NUTISIAN PUPBLIKU

I MANMA PRUPOPONI SIHA NA AREKLAMENTO YAN REGULASION NI PARA U GUBIETNA I AREKLAMENTON KONDISION SIHA NI MANGINAGAGAO PARA IMAN ELIANU NA EMPLIAO

I Sikritarion i Dipattementon Public Health I Commonwealth i Sangkattan siha na Islas Marianas komu konsiste yan i aturidat ni ma enkatga sigon gi 1CMC 2603(a) yan (b) para u adahi yan mas adelanto para i kondision hinemlo yan u ribaba yan u suheta i man tattatmi na chetnot gi halom i CNMI, para esti i manma prupoponi siha na areklamento yan regulasion ni para u rubietna i areklamenton kondision siha ni manginagagao para i man elianu na empliao.

I entension i Dipattamenton Public Health ayu i para u kumple todu i manginagagao siha na kondision gi Administrasion Procedures Act. Espisiatmenti i 1CMC 9104, gi anai ha prupoponi esti siha na Areklamento yan Regulasion, Kopian i manma prupoponi siha na Areklamento yan Regulasion sina manma chuli ginen i Ofisinan i Sikritarion Dipattamenton Public Health gi i primet na bibenda i Commonwealth Center, Komento siha put i manma prupoponi na Areklamento yan Regulasion sina ma na'fanhahanao guato gi Ofisinan i Sikritarion Public Health, Dipattamenton Public Health, P.O. Box 409 CK, Saipan, MP 96950. Todu Dukumento siha debi di u fanma resibi gi halom trenta (3) dias despues di i fecha ni ma pupblika este na nutisia gi halom i, Rehistran Commonwealth.

Ma Settifika as

Dr. Isamu J. Abraham

Sikritario

Dipattamenton Public Health

- 11-96

Ma Satmiti as

Soledad B. Sasamoto Rehistradoran Kotporasion

Ma Risibi as

Donna J. Cruz Ofisinan Gubietno



# COMMONWEALTH HEALTH CENTER

#### OFFICE OF THE SECRETARY

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

#### ARONGORONG NGA'LIIR ARAMAS TOULAP

# Amwólletáál Afal me Aweewe Reel <u>Administration</u>-al Medical Referral Program

Sekereteriil Bwulasiyool Limilimal Toulap(DPH) 1161 Commonwealth Matawal Wáál Falúwal Marianas. Sángi mereel bwángil ia e ngalleey mereel 1CMC 2603(a) me (b) bwelle ebwe ammwala me ebwe lapalap limilim me asóssóla ngare semwaay kka e tétté 1161 CNMI, welle mereel milikkaal a amwólletá Afal me Aweeweel lemelemil sóssótoi Alien Employees.

Reel tipal Bwulasiyool Limilimal Toulap (PHC) ebwe attabweey requirements reel Administrtive Procedures Act, ebwe maas ghil ngáli 11ól 1CMC 9104 igha ebwe amwólletá Aiai me Aweewe kkaal. Kopiyaal amwólletáál Afal me Aweewe kkaal emmwel ubwe bweibwogh mereel Sekereteeriil Limilimal Toulap (DPH), P.O. Box 409 CK. Saipan, MP 96950. Alongal aiyegh ngare mengemeng nge ebwe isisilong mellól eliigh(30) rál kkaal takkeóól 11ól rál ye a isisilong 11ól Commonwealth Register.

Certified Mereel

Dr. Isamu J. Abraham

Sekereteerhil

Bwulasiyool Limilimal Toulap

COMMONWEALTH REGISTER VOLUME 18 NUMBER 07 JULY 15, 1996

Bwughiyal

Donna J. Cruz Rál Bwulasiyool Gobenno

# RULES AND REGULATIONS GOVERNING THE SCREENING REQUIREMENTS OF ALIEN EMPLOYEES

#### I. Purpose and Findings

The purpose of these Rules and Regulations is to establish procedures and protocols for the issuance of Health Certificates to all Alien Employees. Upon adoption of these Rules and Regulations, all Alien Employees, and their family members entering the CNMI, will be required to obtain a general physical examination and health screenings for specified communicable diseases before a Health Certificate is issued to them. These new requirements are intended to not only maintain the health of all Alien Employees who enter and reside in the CNMI to provide employee services to Employers pursuant to the provisions of the Nonresident Worker Act, 3 CMC §4411 et. seq., but also to ensure the health of CNMI residents by preventing the spread of certain infectious and communicable diseases. It is the intent of the Division of Public Health to provide minimum requirements for the protection of life, health, safety, and welfare of CNMI residents by instituting these Rules and Regulations.

The Division of Public Health has determined that many Alien Employees and their families are coming from countries that have endemic communicable diseases that could ultimately become a public health concern for the residents of the CNMI. Furthermore, the Division of Public Health has found that diseases transmitted by Alien Employees frequently originate from an infected employee who shows little outward appearance of being ill. As a result, a wide range of communicable diseases and infections may be unknowingly transmitted by infected personnel to other employees and the general public. The Division of Public Health has thus concluded that an effective means of controlling the spread of specific communicable diseases is to screen the Alien Employees and their families for these diseases upon their entry into the CNMI, and every year subsequent.

The health screening of the Alien Employees will not only be beneficial to these workers and the residents of the CNMI, but will also be

advantageous to Employers. By overseeing compliance with the health screenings of Alien Employees required by these Rules and Regulations, the Employer can minimize the high costs of medical treatment here in the CNMI, and avoid the added cost of deportation in the event the Alien Employee is later found to have a communicable disease. Also relevant to Employers is that Alien Employees afflicted with communicable diseases are less productive. By ensuring that Alien Employees obtain the required health screenings, Employers can assure the relative health of the Alien Employees they employ.

#### II. Definitions

As used throughout these Rules and Regulations, the following terms shall have the meanings set forth below:

- 2.1. <u>Active Tuberculosis</u> means a form of Tuberculosis where the patient is at high risk for transmitting the disease to others.
- 2.2. <u>Adequate</u> means the Secretary's determination that a recommended action will sufficiently fulfill the requirements for a proposed objective.
- 2.3. <u>Alien Employee</u> means any foreign national, other than those citizens from United States Compact Nations, who has entered the CNMI for the purpose of providing services or labor in exchange for remuneration by an Employer.
- 2.4. <u>Department</u> means the Department of Public Health, a department within the Executive Branch of the CNMI Government.
- 2.5. <u>Dependent</u> means the Alien Employee's spouse, children under the age of 21, or parents.
- 2.6. <u>Deportation</u> means the return of an alien to his or her country of origin as provided by the Commonwealth Entry and Deportation Act of 1983, specifically 3 CMC §4341.
- 2.7. <u>Division</u> means the Division of Public Health, a division within the Department of Public Health.

- 2.8. <u>Duly Authorized Representative</u> means the Deputy Secretary of Public Health Administration, the Medical Director of Public Health, the Sanitation Services Officer, or Sanitarian, as appointed by the Secretary.
- 2.9 <u>Employer</u> means any individual, partnership, association, corporation, or other legal entity which hires, employs, or otherwise engages for compensation any individual to perform services or labor within the Commonwealth, including any branch, agency, or instrumentality of the Commonwealth, but does not include the United States government.
- 2.10. <u>Health Certificate</u> means an authorization issued by the Secretary to an Alien Employee certifying that the Alien Employee has been examined and found to be in good health, and free of specified communicable diseases.
- 2.11. <u>HIV</u> means the Human Immunodeficiency Virus which infects humans principally through sexual intercourse, the exchange of bodily fluids, including blood and blood products, or the sharing of needles among intravenous drug users, and which may eventually lead to the development of acquired immunodeficiency syndrome (AIDS).
- 2.12. <u>Inactive Tuberculosis</u> means a form of Tuberculosis which is not considered communicable, and although diagnosed through a positive PPD skin test, leaves the patient asymptomatic and without any evidence of active disease.
- 2.13. <u>Person-In-Charge</u> means the individual present in a place of employment who is the apparent supervisor of the business establishment and the supervisor of the Alien Employees at the time of inspection, or in the event no designated supervisor is present, then any employee working at the place of employment.
- 2.14. <u>Physical Examination</u> means a medical examination performed by a Physician.
  - 2.15 Physician means a CNMI licensed physician.

- 2.16. <u>Secretary</u> means the Secretary of the Department of Public Health, or a Duly Authorized Representative.
- 2.17. <u>Syphilis</u> means a sexually transmitted disease caused by the organism *Treponema pallidum*, and diagnosed by means of a Rapid Plasma Reagin (RPR) test.
- 2.18. <u>Tuberculosis</u> means a communicable disease caused by the organism *Mycobacterium tuberculosis*, which is commonly diagnosed by a positive PPD skin test, and in more active cases, diagnosed by a chest x-ray.

#### III. Physical Examination

- 3.1. Period For Obtaining Physical Examination. Within ten (10) days after authorized entry into the CNMI for employment, an Alien Employee shall obtain a Physical Examination as required by the Nonresident Worker Act, 3 CMC §4438(b). A record of the Physical Examination shall be completed by the Physician on a Physical Examination form approved by the Division. Yearly Physical Examinations for Alien Employees shall be performed at least forty-five (45) days prior to the annual renewal of the employment contract, or forty-five (45) prior to the anniversary of the entry date into the CNMI, whichever date is first.
- 3.2. Filing of Physical Examination Forms. The Physician performing the Alien Employee's Physical Examination shall provide the Employer with a copy of the completed Physical Examination form for the Alien Employee. It shall be the responsibility of the Employer to file a copy of the Alien Employee's Physical Examination form with the Division within thirty (30) days of the Alien Employee's entry into the CNMI, and then every year thereafter. The Employer shall maintain all Alien Employee medical records, including completed Physical Examination forms, in the Employer's employment files. The Employer shall at all times be prepared to show these medical records to a Duly Authorized Representative, upon request during an inspection.

3.3. <u>Cost of Physical Examination</u>. The cost of the Alien Employee's Physical Examination shall be the financial responsibility of the Alien Employee's Employer.

#### IV. Screening For Communicable Disease

All Alien Employees entering the CNMI shall be screened for specified communicable diseases which can not only jeopardize the health and life of the Alien Employees, but also threaten the resident CNMI population and tourists visiting the CNMI. Screenings shall be limited to those communicable diseases which can be easily tested and monitored, including Tuberculosis, HIV, Syphilis, and any other communicable disease specified by the Secretary through health advisories as being a potential risk to the CNMI community.

- 4.1. <u>Procedures For Screening</u>. Concurrent with the performance of the Physical Examination, the Alien Employee shall obtain laboratory tests to screen for the communicable diseases specified in these Rules and Regulations, and any others required by the Secretary through health advisories. The Alien Employee's Physician shall order the tests from a laboratory licensed by the Medical Profession Licensing Board to provide laboratory services in the CNMI.
- 4.2. <u>Filing of Laboratory Test Results With The Division</u>. The Alien Employee's Physician shall provide the Employer with a copy of all laboratory test results required by this Section 4 and by the Secretary's health advisories. It shall be the responsibility of the Employer to file a copy of the Alien Employee's laboratory test results with the Division within thirty (30) days of the Alien Employee's entry into the CNMI, and then every year thereafter.
- 4.3. <u>Cost of Laboratory Tests</u>. The cost of the Alien Employee's laboratory tests to screen for the communicable diseases set forth in these Rules and Regulations, and any other tests required by the Secretary through health advisories shall be the financial responsibility of the Alien Employee's Employer.
- 4.4 Required Laboratory Tests For Communicable Disease
  Screenings. At a minimum, all Alien Employees shall obtain laboratory tests to

- 4.4 Required Laboratory Tests For Communicable Disease
  Screenings. At a minimum, all Alien Employees shall obtain laboratory tests to screen for the following communicable diseases:
- a. <u>Tuberculosis Screening</u>. Every Alien Employee shall obtain a Mantoux tuberculin skin test using purified protein derivative (PPD) first upon entry into the CNMI, and then annually thereafter. A reading of the PPD test must be performed within two (2) days after the test is performed.
- (i) <u>Positive PPD Results</u>. If the PPD test result is positive (greater than or equal to (≥) 10 millimeters induration), then the Alien Employee shall be required to obtain a single view PA chest radiograph. The results of the chest radiograph shall be read by a trained radiologist licensed to practice radiology in the CNMI, or in the absence of a CNMI licensed radiologist, the results shall be sent to the Center For Tuberculosis and Lung Disease at the Commonwealth Health Center. Any Alien Employee whose chest radiograph is suggestive of Tuberculosis in any form shall be referred to the Center For Tuberculosis and Lung Disease for further evaluation. Alien Employees who tested positive for Tuberculosis through the PPD test the prior year shall obtain a single view PA chest radiograph for five (5) consecutive years.
- (ii) <u>Negative PPD Results</u>. If the PPD test result is negative (less than (<) 10 millimeters induration), no further Tuberculosis testing for the Alien Employee will be required until the following year.

The annual PPD test or chest radiograph shall be performed at least forty-five (45) days prior to the annual renewal of the employment contract, or forty-five (45) prior to the anniversary of the entry date into the CNMI, whichever date is first.

b. <u>HIV Screening</u>. Every Alien Employee shall obtain an HIV antibody test first upon entry into the CNMI, and then annually thereafter. The yearly test shall be performed at least forty-five (45) days prior to the annual renewal of the employment contract, or forty-five (45) prior to the anniversary of the entry date into the CNMI, whichever date is first.

- c. <u>Syphilis Screening</u>. Every Alien Employee shall obtain a Rapid Plasma Reagin (RPR) test first upon entry into the CNMI, and then annually thereafter. The yearly test shall be performed at least forty-five (45) days prior to the annual renewal of the employment contract, or forty-five (45) prior to the anniversary of the entry date into the CNMI, whichever date is first.
- d. <u>Other Communicable Diseases</u>. All Alien Employees who contract other infectious or communicable diseases should be seen promptly by a Physician. Any Physician who diagnoses an Alien Employee as having a communicable disease shall immediately report the Alien Employee to the Division.

#### V. Issuance of Health Certificates

- 5.1. Alien Employee Health Certificates. Upon final determination that an Alien Employee has obtained the Physical Examination and laboratory tests prescribed by these Rules and Regulations, and that the Alien Employee is physically fit, in good health, and free from the infectious and communicable diseases covered by these Rules and Regulations, the Secretary shall issue the Alien Employee a Health Certificate. The Health Certificate shall be valid for a period of one (1) year from the date of issue. The Health Certificate shall be maintained in the Alien Employee's employment files at all times. No Employer shall continue to employ an Alien Employee unless such Alien Employee has been issued a Health Certificate by the Division within ninety (90) days from his or her date of employment, and every year thereafter until the time the Alien Employee is repatriated to his or her country of origin.
- 5.2. <u>Cost of Health Certificates</u>. The cost of an Alien Employee Health Certificate shall be Twenty Dollars (\$20.00), payable to the Department upon issuance of the Health Certificate. The Employer of the Alien Employee shall be responsible for the cost of the Health Certificate.

#### VI Division Record Keeping and Tracking Measures

6.1. Public Health Notification Form. A "Public Health Notification Form" shall be completed in triplicate by every Alien Employee and

every Dependent entering the CNMI. The original Public Health Notification Form shall be given to the Alien Employee. One copy of the Public Health Notification Form shall be provided to the Division of Labor, Department of Labor and Immigration, and the second copy shall be provided to the Division.

- 6.2. <u>Database Records</u>. The information contained on the Public Health Notification Form shall be used by the Division to develop an Alien Employee health database. The database shall be used to track all Alien Employees and Dependents for compliance with the health screening requirements established in these Rules and Regulations. All Public Health Notification Forms shall be submitted to the Division within ten (10) days of entry.
- 6.3. Notice of Noncompliance. If a review of the Division's database indicates that an Alien Employee has not been issued a Health Certificate, Division staff shall send written notice to the Alien Employee, with a copy provided to the Employer, of noncompliance with these Rules and Regulations. The Alien Employee shall have twenty (20) days from the date of the notice to come into compliance with the requirements of these Rules and Regulations. Failure to respond to the Division's notice shall subject the Alien Employee and the Employer to penalties as set forth in Section 10 of these Rules and Regulations.
- 6.4. <u>Inspections by Duly Authorized Representatives</u>. From time to time an Employer's place of employment may be inspected by a Duly Authorized Representative of the Department. Upon request by the Duly Authorized Representative, the Employer or Person-In-Charge shall grant the Duly Authorized Representative access to the Alien Employees' employment files for purposes of inspecting the Health Certificates. Any Alien Employee who does not have a valid Health Certificate in his or her employment file shall be reported to the Division.

#### VII. Alien Employees With Positive Test Results

7.1. <u>Deportation</u>. If an Alien Employee is found to have a communicable disease, the Department shall prepare a written advisory to the Department of Labor and Immigration, with a copy provided to the Employer,

within ninety (90) days from the Alien Employee's arrival in the CNMI recommending that such Alien Employee be immediately Deported back to his or her country of origin. The costs associated with the Alien Employee's deportation shall be the financial responsibility of the Employer.

Alien Employees found to have Active Tuberculosis shall be required to comply with the Center for Tuberculosis and Lung Disease protocol for treating Active Tuberculosis until the date they are Deported from the CNMI. Alien Employees whose PPD test results are positive for Tuberculosis, but are diagnosed with Inactive Tuberculosis as determined by the Physical Examination and a single view PA chest radiograph, shall not be recommended for deportation by the Department as long as they remain at low risk of transmitting Tuberculosis, and cooperate with any Tuberculosis therapy prescribed by their attending Physician.

- 7.2. <u>Procedure When Infection Is Suspected</u>. When the Secretary has probable cause to suspect disease transmission by an Alien Employee, the Secretary may require a medical history, Physical Examination, and any necessary laboratory tests required to confirm that the suspected Alien Employee has a communicable disease. If the Alien Employee is confirmed to have a communicable disease, the Secretary may require any or all of the following measures:
- a. Restriction of the Alien Employee's services to an area of the establishment where there would be no danger of him or her transmitting the disease;
- b. Adequate medical and laboratory examinations of other employees working in the same establishment as the Alien Employee pursuant to the Rules and Regulations Governing Communicable Diseases;
- c. The immediate exclusion of the Alien Employee from employment pursuant to the Rules and Regulations Governing Communicable Diseases:
- d. The immediate closing of the place of employment concerned until, in the opinion of the Secretary, no further danger of disease

outbreak exists pursuant to the Rules and Regulations Governing Communicable Diseases;

- e. Confinement of the Alien Employee in the Commonwealth Health Center or his or her home pursuant to the Rules and Regulations Governing Communicable Diseases;
- f. Referral of the Alien Employee to the Department of Labor and Immigration for immediate deportation back to his or her country of origin.

#### VIII. Screening Required For Dependents

- 8.1. Physical Examinations and Laboratory Tests Required for Dependents. Within ten (10) days after authorized entry into the CNMI, all Dependents shall obtain a Physical Examination as required by the Nonresident Worker Act, 3 CMC §4438(b) and Section 3 of these Rules and Regulations, and laboratory tests to screen for communicable diseases as set forth in Section 4 of these Rules and Regulations.
- 8.2. Exceptions For Dependents Age Fifteen Or Younger.

  Notwithstanding Section 8.1, Dependents age fifteen (15) or younger shall only be required to obtain: a) a Physical Examination; b) Tuberculosis Screening; and c) those childhood vaccinations required by Department advisories for which the Dependent does not have Adequate documentation demonstrating that such vaccination was provided in his or her country of origin. The Alien Employee shall be responsible for submitting all vaccination documentation for his or her Dependent age fifteen (15) or younger to the Division for inspection.
- 8.3. Filing of Dependents' Physical Examination Forms and Laboratory Test Results. The Physician performing the Physical Examination shall provide the Alien Employee with copies of the completed Physical Examination form and all laboratory test results for each of the Alien Employee's Dependents in the CNMI. It shall be the responsibility of the Alien Employee to file copies of the Physical Examination form and the laboratory test results of his or her Dependents with the Division within thirty (30) days of the Dependents' entry into the CNMI, and every year thereafter.

- 8.4. <u>Issuance of Health Certificates to Dependents</u>. Health Certificates shall be issued by the Secretary to Dependents as provided in Section 5.1 of these Rules and Regulations. It shall be the responsibility of the Alien Employee to maintain the Health Certificates for his or her Dependents. Any Dependent who has not obtained a Health Certificate within ninety (90) days from his or her date of arrival into the CNMI shall be subject to the penalties set forth in Section 10.3 of these Rules and Regulations.
- 8.4. <u>Cost of Dependents' Physical Examinations, Laboratory</u>
  <u>Tests, and Health Certificate</u>. The cost of the Physical Examinations, laboratory tests, and Health Certificates for Dependents shall be the responsibility of either the Alien Employee or the Employer, as agreed to between them.
- 8.5. Notice of Noncompliance. If a review of the Division's database indicates that a Dependent of an Alien Employee has not been issued a Health Certificate, Division staff shall send written notice to the Alien Employee of noncompliance with these Rules and Regulations. The Dependent shall have twenty (20) days from the date of the notice to come into compliance with the requirements of these Rules and Regulations. Failure to respond to the Division's notice shall subject the Dependent and the Alien Employee to penalties as set forth in Section 10 of these Rules and Regulations.
- 8.6. <u>Deportation</u>. Dependents shall be subject to deportation as provided in Section 7.1. of these Rules and Regulations. However, the costs associated with the Dependent's deportation shall be the financial responsibility of the Dependent or the Alien Employee.
- IX. Application of These Rules and Regulations To Alien Employees and Their Dependents Currently Residing In the CNMI

Upon the effective date of these Rules and Regulations, all Alien Employees and their Dependents currently residing in the CNMI shall have ninety (90) days to obtain a Health Certificate in order to be in compliance with the requirements of these Rules and Regulations. Those Alien Employees and their Dependents who have already had a Physical Examination or laboratory test screening in the CNMI for the year shall not be required to obtain new ones,

but the Employer or Alien Employee shall be required to bring the results of the Physical Examination and/or laboratory test screening to the Division for entry into the database and for issuance of the Health Certificate.

#### X Penalties For Violations of These Rules and Regulations

- 10.1. <u>Penalties for Alien Employees</u>. Alien Employees who are found to be in violation of these Rules and Regulations shall be reported to the Division of Immigration, Department of Labor and Immigration and recommended for Deportation back to their country of origin. The costs associated with Deportation shall be the financial responsibility of the Employer.
- 10.2. <u>Penalties for Employers</u>. An Employer found to be employing an Alien Employee who has not been issued a Health Certificate by the Secretary, or is otherwise violating the provisions of these Rules and Regulations shall be subject to the following penalties:
- a) For first time violations, the Employer shall receive a warning letter from the Division setting forth a compliance date for obtaining a Health Certificate for the Alien Employees who have not obtained Physical Examinations and laboratory tests;
- ii) For second time violations, the Employer shall be subject to a fine of \$200 for each Alien Employee who does not have a valid Health Certificate;
- iii) For repeat violations, the Employer shall be subject to a fine of up to \$1,000 for each Alien Employee who does not have a valid Health Certificate.
- 10.3. <u>Penalties for Dependents</u>. Dependents age eighteen (18) or older who are found to be in violation of these Rules and Regulations shall be reported to the Division of Immigration, Department of Labor and Immigration and recommended for Deportation back to their country of origin. Dependents under age eighteen (18) who are found to be in violation of these Rules and Regulations shall be reported to the Division of Immigration, Department of Labor and Immigration and recommended for Deportation back to their country

of origin along with the parent Dependent, or if there is no parent Dependent in the CNMI, then with the Alien Employee. The costs associated with Deportation shall be the financial responsibility of the Dependent or the Alien Employee.

10.4. <u>Penalties For Other Violations</u>. Any person found by the Department to have obtained a Health Certificate by fraudulent means; forged or altered information on a Physical Examination form or laboratory test screening; refused or failed to comply with any order issued by the Secretary or Duly Authorized Representative pursuant to these Rules and Regulations, or violated these Rules and Regulations in any other manner not specified in this Section 10, shall be liable for a civil penalty of up to \$1,000.00 for each violation of the Rules and Regulations.

#### XI Severability

If any provision of these Rules and Regulations or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these Rules and Regulations or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected hereby.

#### DEPARTMENT OF COMMERCE



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS CALLER BOX 10007 C.K., SAIPAN, MP 96950

TEL. NO. (670) 664-3000/1/2 FAX NO. (670) 664-3067

### PUBLIC NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE FOREIGN INVESTMENT REGULATIONS

CONTENTS: PROPOSED AMENDMENT TO THE FOREIGN
INVESTMENT REGULATIONS, Commonwealth Register, vol. 17, no. 1,
at 12739, 12742-43, (January 15, 1995), Section 901C, 1001C 2 n:

SECTION 901. REGULAR TERM BUSINESS CERTIFICATE.

C. Application Process. Applicants for a regular term business certificate shall file with the Department of Commerce a completed application form approved by the Secretary, to include a police clearance valid for the previous ninety (90) days from the date of application for the regular term business certificate. The procedures for the review of regular term business certificates are set forth in section 701 of this Part.

SECTION 1001. LONG TERM BUSINESS CERTIFICATE.

- C. <u>Application Process</u>.
  - 2. The following documents shall be attached to a completed application form:
    - n. A police clearance valid for the previous two years from the date of application for the long term business certificate.

**PUBLIC COMMENTS:** All interested persons may submit written data, views, or arguments about the proposed amendments to the Secretary, Department of Commerce, P.O. Box 10007, Saipan, MP 96950, on or before August 15, 1996.

**AUTHORITY:** The Department of Commerce is authorized to promulgate regulations pursuant to 1 CMC §§ 2454, 9104.

PEDRO Q. DELA CRUZ

Director, Department of Commerce

7/15/9

Soledad B. Sasamoto

Filed by Registrar of Corporations

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#### DEPARTMENT OF COMMERCE



# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS CALLER BOX 10007

C.K., SAIPAN, MP 96950

TEL. NO. (670) 664-3000/1/2 FAX NO. (670) 664-3067

NUTISIAN PUPBLIKU PUT I INTENSION PARA U MA ADAPTA I AMENDASION SIHA GI AREKLAMENTON REGULASION "FOREIGN INVESTMENT"

SUHETU: PROPOSITU NA AMENDASION GI REGULASION YAN "FOREIGN INVESTMENT" AREKLAMENTON, Commonwealth Register, vol. 17, no. 1, at 12742-43, (Enero 15, 1995), Seksionas 901C, 1001C 2 n:

SEKSIONA 901. REGULAT TERM BISNES SETTIFIKU.

C. <u>Para Man Process Applikasion</u>. Applicantes para i regulat term bisnes settifiku debi di hu ma file gi Dipatamenton Commerce cabales aplikasion ma aprueba ni Secretariu, <u>yan na dana police clearance sufficiente novente (90) dias di fechan i aplikasion para i regulat term bisnes settifiku. I procedures ni para uma eksamina i regulat term bisnes settifiku sina ma sotda gi seksiona 701 este na patte.</u>

SEKSIONA 1001. LONG TERM BISNES SETTIFIKU.

- C. Para Man Process Applikasion.
  - 2. Esta siha na dokumentu debi di hu ma danahi i cabales na aplikasion:
    - n. I police clearance sufficiente dos anos antes di fechan i aplikasion para i long term bisnes settifiku.

KOMENTUN PUPBLIKU: Todu man enteresau na taotao pot i propositu amendasion, pot fabot, tugi pa ya na halom gi Ofisina Secretariu, Dipatamenton Commerce, P.O. Box 10007, Saipan, MP 96950 gi dia Agusto 15, 1996.

ATURIDAT: I Dipatamenton Commerce ma aturisa para u famatinas Regulasion sigun gi sinangan i 1 CMC §§ 2454, 9104.

PEDRO Q. DELA CRUZ

Secretariu, Dipatamenton Commerce

Fécha

SOLEDAD B. SASAMOTO

Ha file i Registrar of Corporations

MMONWEALTH RECIPTER THE 18 NUMBER 07 JULY 15, 1996

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GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

# NOTICE OF ADOPTION OF THE AMENDMENTS TO THE SCHEDULE OF MEDICAL AND OTHER RELATED FEES DEPARTMENT OF PUBLIC HEALTH

The Secretary of the Department of Public Health(DPH) notifies the Public that DPH has adopted the amendments to the Schedule of Medical and Other Related Fees. The amendments to the Schedule of Medical and Other Related Services were published in the Commonwealth Register Volume 18, Number 06, dated June 15, 1996. The adoption is pursuant to Title 1 CMC Division 2, Chapter 12, and in particular 1 CMC SS2605(j). Copies of the adopted amendments to the Schedule of Medical and Other Related Fees may be obtained from the Office of the Secretary of Public Health located at the ground floor of the Commonwealth Health Center.

DR. SAMU J ABRAHAM SECRETARY

Department of Public Health

Filed By:

Ms. Soledad Sasamoto
Registrar of Corporations

Received by:

Ms. Donna Cruz
Governor's Office

DATE: 7-15-9/2

7/15/96





GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

#### NUTISIAN PUPBLIKU GI MA ADAPTA SIHA NA AMENDASION GI LISTAN APAS MEDIKU YAN OTRO SIHA NA APAS NI MAN APLIKAO DIPATTAMENTON HINEMLO PUPBLIKU

I SIKRITARION DIPATTMENTON HINEMLO PUPBLIKU HA NUTITISIA I PUPLIKU NA MAN MA ADAPTA AYU SIHA I LISTAN APAS MEDIKU YAN OTRO SIHA NA APAS NI MAN APLIKAO NI MAN MA AMENDA, YAN ESTA MA PUPLIKA GI JUNIO 15, 1996, GI REHISTRAN COMMONWEALTH, VOLUME 18, NUMIRO 06.

I MA ADAPTAN-NIHA ESTE SIHA NA AMENDASION SIGUN GI TITULU I GI KODIKON COMMONWEALTH(CMC) DIBISION 2, KAPITULU 12, YAN PATIKULATMENTE I 1 CMC SS2605(J).

KOPIAN I MA ADAPTA SIHA NA AMENDASION NA LISTAN APAS MEDIKU YAN OTRO SIHA NA APAS NI MAN APLIKAO SINA MANMACHUCHULE GI UFISINAN I SIKRITARION, HINEMLO PUPLIKU GI PRIMET BIBENDA GI CHC.

At 5 m	DATE:	7-15-96
DR. ISAMU J. ABRAHAM		
SECRETARY		
DEPARTMENT OF PUBLIC HEALTH SERVI	CES	
FILED DV. Dm./2	DATE	7/15/96
FILED BY: MO 201 FDAD 24 24 10 TO	DATE:	1//37 70
MS. SOLEDAD SASAMOTO REGISTRAR OF CORPORATION	ONS	
RECEIVED BY:	DATE:	7/10/96
MS. DONNA CROZ		7-5-7
GOVERNOR'S/ØFFICE		

COMMONWEALTH REGISTER VOLUME 18 NUMBER 07 JULY 15, 1996

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GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

# CERTIFICATION OF ADOPTION OF THE AMENDMENTS TO THE SCHEDULE OF MEDICAL AND OTHER RELATED FEES DEPARTMENT OF PUBLIC HEALTH

I, Dr. Isamu J. Abraham, am the Secretary of the Department of Public Health, the Department which is promulgating the Amendments to the Schedule of Medical and Other Related Fees, published in the Commonwealth Register on June 15, 1996 at pages 14156 to 14158. By signature below I hereby certify that the amendments published in the Commonwealth Register are a true, complete, and correct copy of the Amendments to the Schedule of Medical and Other Related Fees formally adopted by the Department of Public Health. I further request and direct that this Certification be published in the Commonwealth Register and then be attached by both the Registrar of Corporations and the Office of the Governor to the Schedule of Medical and Other Related Fees as referenced above.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 15th of July, 1996 at Saipan, Commonwealth of the Northern Mariana Islands.

Signature:

DR. SAMU J. ABRAHAM

SECRETARY

DEPARTMENT OF PUBLIC HEALTH

# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



DEPARTMENT OF LABOR AND IMMIGRATION
Office of the Secretary
Saipan International Airport
Saipan, MP 96950
(670) 288-8805/6/7/8
FAX: (670) 234-7787

THOMAS O. SABLAN

#### **PUBLIC NOTICE**

#### NOTICE OF ADOPTION OF PROPOSED AMENDMENTS TO SECTIONS 403, 405, AND 1201 OF THE IMMIGRATION REGULATIONS

The Department of Labor and Immigration hereby provides notice to the general public that the Department will adopt the proposed amendments to the Immigration regulations published in the <u>Commonwealth Register</u> on July 15, 1994, Vol. 16, No. 7, pages 12234-12236.

These regulations take effect ten (10) days after this publication in the Commonwealth Register.

THOMAS O. SABLAN /
Secretary, Department of Labor and Immigration

SOLEDAD B. SASAMOTO

Filed by Registrar of Corporations

DONNA CRUZ

Received at the Governor's Office

7-12-96 Date
7/12/96

Date

#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Thomas O. Sablan

# DEPARTMENT OF LABOR AND IMMIGRATION Office of the Secretary

Office of the Secretary Saipan International Airport

Saipan, MP 96950 (670)288-8805/6/7/8 FAX: (670) 234-7787

#### **NUTISIAN I PUBLIKU**

#### NUTISIA NA MA ADAPTA I PROPOSITUN I AMENDASION SEKSION 403, 405 YAN 1201 POT I REGULASION I IMMIGRATION

I Depattamentun i Labor yan Immigration mana guaha notisia para i publiku pot i Depattamentu na para u ma adapta i propositu na amendasion regulasion i Immigration ma publika gi <u>Commonwealth Register</u> Julio dia Kinsi (15) mit nuebi sentus nubentai kuatro (1994), Vol. 16, No. 7, potte 12234-12236.

Este siha na regulasion inifecta dies (10) dias i publikasion gi <u>Commonwealth</u> <u>Register</u>.

THOMASO. SABLAN /

Sekretariu, Depattamentun I Labor yan Immigration

SOLEDAD B. SASAMOTO

Ma File gi Registrar of Corporations

DONNA CRUZ

Ma Risibi gi Ofisinan Gobetnu

Fecha

Fecha

#### DEPARTMENT OF LABOR AND IMMIGRATION

# AMENDMENTS TO SECTIONS 403, 405 AND 1201 OF THE IMMIGRATION REGULATIONS.

#### **SECTION 403. REGISTRATION.**

- A. Any alien who intends to remain in the Commonwealth for more than ninety (90) days shall register with the Immigration Service within ninety (90) days.
- B. Any alien who is issued a renewal of his or her employment or business permit shall register within ten (10) business days after the issuance of the renewal.
- C. Parents and legal guardians of alien children and wards are responsible for the registration of such children and wards whoa re under the age of 18.
- D. An employer shall ensure that any alien in his or her employ has registered in accordance with these regulations. An employer's responsibility under this secion is in addition to and does not diminish the responsibility of an alien.

#### **SECTION 405. REGISTERED ALIEN CARD.**

No registered Alien Card shall be issued until the alien has paid a twenty-five dollar (\$25.00) application processing fee to the Treasurer of the Commonwealth of the Northern Mariana Islands.

#### SECTION 1201, FEES.

The following schedule of non-refundable fees shall apply:

Α.	Vessel or Aircraft Permission to Land.	\$100.00
В.	All other Entry Permits	\$100.00
	(applications, extensions, and renewal).	
C.	Alien Registration Card.	\$ 25.00
D.	Duplicate Copies of Permits and	\$ 25.00
	Alien Registration Cards.	

# DEPARTMENT OF PUBLIC HEALTH SERVICES COMMONWEALTH HEALTH CENTER AMENDMENTS TO THE SCHEDULE OF MEDICAL AND OTHER RELATED FEES 1995

			IT .
CPT #	CPT SHORT DESCRIPTION	(in US	\$) 
MEDIC	AL		
20501	INJECTION OF SINUS TRACT: DIAGNOSTIC		49
	INCISION & DRAINAGE OF ABCESS; PERTONSILLAR		
	ERCP; W/PRESSURE MEASURE OF SPHINCTER OF ODDI		564
	EXCISION OF LESION OF MESENTERY (SEPARATE PROCEDURE)		742
46080	SPHINCTEROTOMY		223
49080	PERITONEOCENTESIS, ABDOMINAL PARACENTESIS, OR		104
	PERITONEAL LAVAGE; INITIAL		
	PERITONEOCENTESIS; SUBSEQUENT		95
	SIMPLE CYSTOMETROGRAM		120
	EXCISION OF PENIS LESION		144
	INCISION/DRAINAGE OF SCROTUM		200
	DRAINAGE OF PELVIC FLUID		104
	CONSTRUCTION OF ARTIFICIAL VAGINA; W/O GRAFT		653
	VENOGRAPHY, EXTREMITY, UNILATERAL, SUP.&INTERPET.		100
	CLINICAL PATHOLOGY CONSULTATION; LIMITED		25
80502	CLINICAL PATHOLOGY CONSULTATION; COMPREHENSIVE		50
92567	TYMPANOMETRY		25
	INCENTIVE SPIROMETRY		40
97150	THERAPEUTIC PROCEDURES, GROUP		25

#### DEPARTMENT OF LABOR AND IMMIGRATION

#### PUBLIC NOTICE

### NOTICE OF ADOPTION OF AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS

The Secretary of the Department of Labor and Immigration hereby gives notice of the adoption of amendments to the Alien Labor Rules and Regulations which govern the processing labor application of citizens of the Republic of the Philippines and amends other processing requirements applicable to all nonresident workers. The first set of regulations were previously published as Emergency and Proposed Amendments to the Regulations in the Commonwealth Register at Volume 16, No. 10, pages 12451 to 12454, on October 15, 1994. The second set of regulations were published as Proposed Amendments to the Alien Labor Rules and Regulations in the Commonwealth Register at Volume 17, No. 12, pages 13881 to 13884 and 13887 to 13888, on December 15, 1995.

CONTENTS:

(SEE ATTACHED REGULATIONS)

**AUTHORITY:** The Secretary of Labor and Immigration is authorized to promulgate and adopt regulations pursuant to Executive Order Section 301, 94-3 Reorganization Plan No. 2, 3 CMC Div. 4 §4424(a)(1), and 1 CMC Div. 9 §9104.

THOMAS O. SABLAN, SECRETARY

DEPARTMENT OF LABOR AND IMMIGRATION

SOLEDAD B. SASAMOTO

FILED BY REGISTRAR OF CORPORATIONS

DONNA CRUZ

RECEIVED BY GOVERNOR'S OFFICE

7/12/96

#### DIPATTAMENTON LABOR YAN IMMIGRATION

#### **NUTISIAN PUBLIKU**

#### NUTISIA NA MA ADAPTA I AMENDASION POT I AREKLAMENTON YAN REGULASION GI ALIEN LABOR

I Sekretarian Dipattamenton Labor yan Immigration ginen este para u adapta i amendasion gi "Areklamenton yan Regulasion gi Alien Labor" para u gunubetna i prepara i aplikasion i Labor na residente i Philipinas yan amendasion otro siha na preparasion e aplikasion siha pot todu "nonresident workers". I finenene'na na regulasion ma publika pot emergency yan propositu amendasion gi regulasion gi Commonwealth Register gi Vol. 16, No. 10, pahina numeru 12451-12454 gi Oktobre 15, 1994. E segundo na regulasion ma publika gi propositun i amendasion gi "areklamenton yan regulasion gi Alien Labor" gi Commonwealth Register gi Vol. 17, No. 12, pahina numeru 13881-13884 yan pahina 13887-13888 gi Decembre 15, 1995.

(Atan e regulasion gi mina' tres pahina)

_	(	-5 P
\$	Aturidat: I ma amenda na regulasion malaknos Sekretariun Dipattamenton Labor yan Immigration s Order) 94-3, Seksiona 301 yan 3 CMC Seksions 442	igun i otde eksekatibu (Executive
_	Jamelle	7-11-96 Fecha
7	ГНОМАS O. SABLAN	Fecha
9	Sekretarian Depattamenton Labor yan Immigration	
	mm	7-12-96
\$	SOLEDAD B. SASAMOTO	Fecha
1	Ma File gi Registrar of Corporations	
_	Don J. Cin	7/12/96
Ĩ	DONNA CRUZ	Fecha
ľ	Ma Risibi gi Ofisinan Gobetnu	

Subetu:

#### DEPARTMENT OF LABOR AND IMMIGRATION

#### CERTIFICATION

#### AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATION

I, Thomas O. Sablan, Secretary of Labor and Immigration hereby certify that the attached amendments to the Alien Labor Rules and Regulations are a true and correct copy of regulations being adopted by the Department of Labor and Immigration. The adopted regulations were published in the <u>Commonwealth Register</u> at Volume 16, No. 10, pages 12451 to 12454, on October 15, 1994 and in the <u>Commonwealth Register</u>, at vol. 17, no. 12, at pages 13874 to 13906 on December 15, 1995

I declare under penalty of perjury that the foregoing is true and correct and is executed on this 12 day of July, 1996, at Saipan, Commonwealth of the Northern Mariana Islands.

THOMAS O. SABLAN

SECRETARY OF LABOR AND

**IMMIGRATION** 

#### CONTENTS:

ADOPTED AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS as new subsections II (A) (2) (d), as published in the Commonwealth Register, Volume 16, No. 10, pages 12451 to 12454 (October 15, 1994).

- d. <u>Processing of Labor Certificates for Philippine Citizens.</u>
  Prior to the processing of a Labor application by the Division of Labor, applicants who are citizens of the Republic of the Philippines must comply with the following requirements:
  - 1. Prior to the submission of a new, renewal, or transfer labor application to CNMI Division of Labor, the employment contract and supporting documents must be submitted to the Philippine Labor Office, within the Philippine Consulate for review. Upon completion of the review, the Philippine Labor Office will return the application to the employer for submission to CNMI Labor.
  - 2. CNMI Labor will not accept an application for a Philippine citizen without the following:
    - a. Proof that the employment contract and supporting documents were reviewed by the Philippine Labor Office; and
    - b. For only new applications, a declaration of the employer that a copy of the entire application package being submitted to CNMI Labor, was also sent to the CNMI Manila Liaison Office (MLO) or proof that the application was already reviewed by the MLO.
  - 3. The CNMI Manila Liaison Office will send its recommendations to CNMI Labor and CNMI Labor will consider these findings during the review process of the applications.
  - 4. Renewal and transfer applications do not need to be sent to the CNMI Manila Liaison Office for their review.

ADOPTED AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS, published in the <u>Commonwealth Register</u> at Volume 17, No. 12, pages 13881 to 13884 and 13887 to 13888 (December 15, 1995).

## I. Former subsection II(B)(5) is repealed in its entirety and replaced with the following:

- After receiving notice from the Director of Labor or his designee that the application for a labor certificate and the employment contract have been approved, the employer shall deliver within thirty (30) days to the Director of Labor or his designee a bond, written third-party guaranty, or deposit of funds into an approved escrow account, or combination thereof.
  - a) The minimum amount of the bond shall be equal to the cost of one-way transportation between the point of hire as specified in the employment contract and the point of employment within the Commonwealth, three (3) months salary as specified in the contract of employment, up to a maximum of \$3,000 per employee, and at least \$3,000 for medical expenses including the cost of medical referral, embalming, and transportation of the body back to the country of origin in the event of death. The financial assurances of the bond or surety are to be in addition to, not a substitute for, any other financial guarantees currently required or which may be required in the future by the Commonwealth.
  - b) Any bond, written third party guarantee, or deposit of funds shall, upon demand and execution, be payable to the Director of Labor only for payment of outstanding medical charges due to the Commonwealth Health Center, the repatriation of a nonresident worker to his or her country of origin, and the payment, in whole or part, of wages due the employee from the employer under the final order of a court or an order by an administrative hearing officer that has not been appealed.
  - c) The written terms and conditions of all bonds, guarantees, or escrow deposits shall specify the following:
    - i. That the bond, guarantee, or escrow deposit shall be subject to demand and execution by the Director of Labor, or where authorized by a court order or administrative hearing order.

- ii. that the bond, guarantee, or escrow deposit shall be held liable for any unpaid wages or costs, repatriation, or medical costs determined by a court or administrative hearing officer to be based on or arising from actions or inactions by the employer during the period of employment specified in the contract of employment between the nonresident worker and the employer; and
- iii. that the bond, guarantee, or escrow deposit shall be subject to demand and execution for a period no shorter than the period of employment specified in the employment contract plus the statutory period for filing a claim for unpaid wages (as codified under 4 CMC Div. 9 § 9246), plus 30 days;
- iv. that upon receipt of a "Notice of Potential Claim", the period for filing a claim shall be tolled; and
- v. that no changes in the terms and conditions of the bond, guaranty, or escrow deposit shall be effective unless and until it is approved in writing by the Director of the Division of Labor or his designee; and
- Within ten (10) days of receipt of, or within five d) (5) days of determining that the Department of Immigration and has administrative jurisdiction over, a complaint, whichever is later, alleging an unlawful termination or contract or the failure to pay wages required under Nonresident Worker Act or the wage and hour statutes and regulations of the Commonwealth, the Director of the Division of Labor or his designee shall transmit a "Notice of Potential Claim" to the third-party guarantor, company, administrator of the approved escrow account.
- e) Within ten (10) business days of receipt of a "Notice of Potential Claim", the bonding company, third-party guarantor, or administrator of the approved or managed escrow account will provide written evidence to the Director of Labor that sufficient funds are available and have been reserved to satisfy the bond, guarantee, or escrow account deposit made in connection with the employment of a complaining nonresident worker.

f) Payment of bond, guarantee, or escrow deposit funds necessary to satisfy any final order of a court or administrative hearing officer for unpaid wages and/or the costs of repatriation, shall be made to the Director of Labor within 10 business days of the receipt of a "Notice of Claim".

In the absence of written evidence of payment by an employer, a "Notice of Claim" shall be sent to the bonding company, third party guarantor, or administrator of the approved escrow account within twenty-five (25) business days following issuance of a final order by a court or an administrative hearing officer, against the employer awarding unpaid wages and/or costs or repatriation in favor of the nonresident worker.

- g) Within ten (10) business days of the deposit of the bond, guarantee, or escrow with the Director of Labor, the Director of Labor shall remit to the foreign employee or authorized service provider any amounts deposited in favor of the party.
- h) Actual written notice must be given to the Director of Labor upon any attempt to cancel a bond, terminate a guaranty, or escrow deposit. Guarantors failing to give proper notice to the Division of Labor at least five (5) days before the anticipated cancellation will be held accountable for any claims made against the bond, guaranty, or escrow deposit.
- i) Any employer whose bond, guaranty, or escrow deposit is cancelled at any time prior to the expiration of an employee's employment contract covered by the bond, guaranty, or escrow deposit, will be subject to sanctions provided for in the Nonresident Worker's Act and immediate cancellation of all permits issued to that employer.

#### II. A new subsection II(D)(9) is added as follows:

9. Any employers who are determined by the Director of Labor or his designee to be unable to meet forecasted financial obligations to employees shall result in the denial of all pending applications.

#### III. A new subsection II(E) is added as follows:

## E. <u>MINIMUM FINANCIAL REQUIREMENTS FOR NON-BUSINESS</u> <u>EMPLOYERS</u>.

- 1. Non-business employers are defined as those employers who may employ nonresident workers, but have not obtained a business license. Nonresident workers employed by non-business employers include, but are not limited to the following job classifications: farmers for subsistence farming and domestic helpers.
- 2. Non-business employers must meet the following minimum financial guidelines:

No. of persons in household Gross Monthly Income

1	• • • • • • • • • • • • • • • • • • • •	\$1,583
2		\$1,833
3		\$2,033
4		\$2,183
5		\$2,333

For every additional person living in the household, add another \$150 to the minimum amount required.

- 3. Any non-business employers failing to meet the financial minimum guidelines stated in these regulations shall be denied approval of any permits submitted to the Division of Labor.
- 4. Any persons in the household who wish to have their income considered for purposes of meeting the minimum financial guidelines must execute the nonresident worker's employment agreement and become a co-employer of record or execute an affidavit assuming joint and several liability of any claims brought about by the nonresident worker arising from the period of the employment.



GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

#### **PUBLIC NOTICE**

NOTICE OF ADOPTION OF AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

NOTICE IS HEREBY GIVEN that the Secretary of the Department of Public Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC §2605, adopts the Rules and Regulations governing the establishment and administration of the Medical Referral Program which were first published in Vol. 18, No. 4 of the Commonwealth Register, pages 14039-14065 (April 15, 1996) with the amendments set forth in the republished Rules and Regulations attached hereto.

At the time the proposed Rules and Regulations were published, the public was asked to provide comments and make suggestions for the modification or improvement of the Rules and Regulations. A number of comments, both oral and written, were received and considered by Department of Public Health administration. Copies of the written comments received in response to the prior public notice are available for inspection at the Department of Public Health during regular business hours. As a result of this review of the public comments, various changes were made to the Rules and Regulations as originally proposed. A review of the comments and the action taken by the Department of Public Health in response to the comments is attached to this Public Notice.

In accordance with 1 CMC §9105(b), the adopted rules and regulations shall take effect ten (10) days after the date of publication of this the Commonwealth Register

DR. ISAMU J. ABRAHAM

Secretary of the Department of Public Health

Received:

SOLEDAD B. SASAMOTO

Registrar of Corporations

Date

7/12/96

Governor's Office





#### OFFICE OF THE SECRETARY

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

## CERTIFICATION OF ADOPTION OF THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

I, Dr. Isamu J. Abraham, the Secretary of the Department of Public Health which is promulgating these Rules and Regulations Governing the Administration of the Medical Referral Program, as originally published in the April 15, 1996 Commonwealth Register, Volume 18, Number 4, pages 14039-14065, by my signature below, hereby certify that the attached Rules and Regulations Governing the Administration of the Medical Referral Program, as amended, are a true, correct, and complete copy of the Rules and Regulations formally adopted by the Department of Public Health.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the date indicated below at Saipan, Commonwealth of the Northern Mariana Islands.

Secretary of the Department of Public Health

Date

Received:

SOLEDAD B. SASAMOTO

Registrar of Corporations

DONNA J. CRUZ

Governor's Office

Date

Doto



GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

## COMMONWEALTH HEALTH CENTER OFISINAN I SIKRETARIU

#### **NUTISIAN PUPBLIKU**

NUTISIA PUT I MA ADAPTA-ÑIHA I AMENDASION SIHA GI AREKLAMENTO YAN REGULASION NI GUMIBEBETNA I ATMINISTRASION I PRUGRAMAN RINIFEREN HOSPITAT

NUTISIA MAN NANA'I GINEN ESTE na I sikretarion I depattamenton Hinemió Pupbliku gi Commonwealth I Sangkattan siha na islas Mariana, konsiste yan I aturidat ni ma entrega guato giya guiya sigon gi 1 CMC §2605, ha adata I Areklamento yan Regulasion siha I gumibebetna I ma establese yan atministrasion I Prugraman Riniferen Hospitat ni manma pupblika finen'na gi halom Baluma 18, Numiru 4 na Rehistran Commonwealth, pahin 14039 esta 14065 (gi Abrit 15, 1996) yan I amendasion siha ni manma laknos gi halom I agon ma pupblika na Areklamento yan Regulasion siha ni chechetton yan este guine.

Gi tiempo ni manma pupbliku I priniponen Areklamento yan Regulasion siha, manma faisen I pupbliku para u pribeni komento yan para u fanma'ma'tinas rekomedasion siha para I ma dirogan osinó para I ma adelantan-ñiha I Areklamento yan Regulasion siha. Unos kuanto siha na konsidera nu I atministrasion Depattamenton Hinemló Pupbliku. Guaha siha koplan I tinige siha na komento ni manma risibi komu kontestasion I mofo'na na nutisian pupbliku para inspeksion pupbliku gi Depattamenton Hinemló Pupbliku duranten I regulat siha na oran bisnes. Komu resutten este na inina I komenton pupbliku siha, guaha siha tinulaika manma fa'tinas gi Areklamento yan Regulasion siha ni manma pruponi orihinatmente. I ninian I komento siha yan I akslon ni ma coh'gue nu I Depattamenton Hinemló Pupbliku komu ineppe para komento siha ma na'chechetton yan este na nutisian pupbliku.

#### Page 2-NUTISIAN PUPBLIKU

Kumo konsiste yan I 1 CMC §9105(b), I manma adapta siha na areklamento yan regulasion para u fanifektibu dies (10) dias despues di fechan pupbliku este gi halom I Rehistran Commonwealth.

DOKTO ISANU J. ABRAHAM. Sikretarion I Depattamenton Hinemió Pupbliku 7-12-96

**Fecha** 

Ma <del>ra sib</del>i as:

SOLEDAD B. SASAMOTO Rehistradoran Kotoparasion siha

> DONNÁ J. CRUZ Ofisinan i Gubetno

Fecha

Fecha





GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

## COMMONWEALTH HEALTH CENTER OFFISINIAN I SIKRETARIU

# NUTISIAN PUPBLIKU SETTEFIKASION I MA ADAPTAN-ÑIHA I AREKLAMENTO YAN REGULASION SIHA NI GUMIBEBETNA I ATMINISTRASION I PRUGRAMAN RINIFEREN HOSPITAT

GUAHU, si Dokto Isamu J. Abraham, I Sikretarion I Depattamenton Hinemló Pupbliku ni lumalaknos este siha na Areklamento yan Regulasion ni ha Gubebetna I Atministration Prugraman Riniferen Hospitat komo orihenatmente ma pupblika gi halom I Abrit 15, 1996 na Rehistran Commonwealth, Baluma 18. Numiru 4, pahina 14039 esta 14065. ginen I fitma-ku gi sigente, ginen este hu settefika na I chechetton n kopian I Areklamento yan Regulasion siha ni Gumibebetna I Atministration I Prugraman Riniferen Hospitat, komu ma amenda manmagahet, mandinanche, yan komplidu na kopian I Areklamento yan Regulasion siha ni manma adapta fotmatmente nu I Depattamenton Hinemló Pupbliku.

Hu diklara gi papá I penan pethudisia na I manmassangan gi sanhiló magahet yan dinanche yan na este na diklarasion ma cho'gue gi I fecha ni ma endika gi sampapá gi Saipan, Commonwealth I Sangkattan siha na Islas Mariana.

DOKTO IŠAMU J. ABRAHAM

Sikretarion Depattamenton Hinemló

Pupbliku

Eacha

Ma risibi as:

SOLEDAD B. SASAMOTO Rehistradoran Koporasion siha

Fecha

DONNA J. GRUZ

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GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

#### ARONGORONG NGÁLIIR TOULAP

Arongorong Reel <u>Adoption</u>-ul lliwel Reel Afal(<u>Rules</u>) Me A weewee (<u>Regulation</u>) Lemelemil Administration-al Medical Referral Program

Arongorong Bwelle Reel Milleel A Isisiwow bwe Sekereteriil Bwulasiyoo Limilimal Toulap mereel Commonwealth Metawal Wóól Falúwal Marianas, mereel bwángil ye e ngalleeyey sángi mereel 1CMC § 2605, reel adopt-aal Afal(Rules) me Aweewe(Regulation) Igha e lemeli fféérétáál ngare mwóghútúl administration-al Medical Referral Program sàngi schagh reel mmwal yaal isisilong Ilól Vol. 18, No. 4 mellól Commonwealth Register, peigh (page) 14039-14065 (Séétá (April) 15, 1996) ebwal schuu schagh me amendments kka e ammwaleló igha ebwe arong sefáál Afal me Aweewe ikka e appasch ngáli toriito ighila.

Ighiwe reel amwólletáál Afal me Aweewe e arongaar toulap bwe rebwe aiyeghelong ngare isisilong yaar mengemeng bwelle ebwe attabweey ngare ayoora lomotaal Afal me Aweewe. Bwulasiyool Limilimal Toulap (PHC/CHC) a bwughil akkááw aiyegh me mengemeng kkewe, eweewe schagh igha re ischilong ngare kkapaselong me rebwel ghil páángi, mereel Bwulasiyool Limilimal Toulap (PHC/CHC). Kopiyaal ischilongol aiyegh ngare mengemeng kkaal mereer aramas toulap eyoor mereel aramas toulap eyoor mereel lmwal Limitimal Toulap, iyo e tipeli ebwe tigheey milikkaal ebwe tooto llól ótol angaang. Sángi mereel towowul aiyegh ngare mengemeng mereel toulap, eyoor milikka a lliíwel mellól fasit fféérétáál Afal me Aweewe.

Mereel, 1CMC 9105(b) afai me aweewe kka a <u>adopted</u> eb takelóól arongotong yeel ilói <u>Commonwealth Register</u> .	we fisiló liól seigh (10
1 th min	7-12-96 Rái
DR. ISAMU J. AERAHAM	Rál
Sekereterii Bwulasiyool Limilimal Toulap (PHC/CHC)	
Bwughiyal, mm/	7/2/96
Soledad B. Sasamoto	Rál
Registrar of Corporation	7/12/96
Donna J. Crylz	Rál
Bwulasitool Gobenno	

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# COMMONWEALTH HEALTH CENTER OFFICE OF THE SECRETARY

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

### ARONGORONG NGÁLIIR TOULAP

<u>Certification Reel Adoption</u>-al Afal(<u>Rules</u>) Me Aweeweel (<u>Regulation</u>)

Lemelemil <u>Administration</u>-al <u>Medical Referral</u>

Ngaang, DR. ISAMU J. ABRAHAM Sekereteriil Bwulasiyool Limilimal Toulap(PHC/CHC) igha ekke ateewelo Afal(Rules) me Aweeweel(Regulation) Lemelemil Administration-al Medical Referral Program, ilaal bweletáál yaal toowow arongorong wóól Séétá (April) 15, 1996 Commonwealth Register Volume 18, Number 4 peigh (page) 14039-14065, reel igha ya ischlitiw itey bwelle reel milleel, I certify-li bwe Afal kkaal me Aweeweel Lemelemil Administration-al Medical Referral Program, igha a Iliiwel, e ellet, e welewel kopiyal Afal me Aweewe kkaal ighiwe e adopted mereel Bwulasiyol Limilimal Toulap(PHC/CHC).

l abwáári bwe alongal meta kka e lo llól nge e ellet me e welewel, iwe, l abwáári bwe milleel a takkeló llól rál ye e mákk faal, wóól Séipél, Metawal Wóól Falúwal Commonwealth.

DR. ISAMU J. ABRAHAM
Sekereterill Bivulasiyol Limilimal Toulap (PHC/CHC)

Bwughiyal.

Soledad B. Sasamoto
Rál
Registrar of Corporation

Donna J. Cruz
Bwulasiyool Gobenno

# DISCUSSION OF PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE PROPOSED RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

In response to the April 15, 1996 proposed Rules and Regulations Governing the Administration of the Medical Referral Program, the Department of Public Health ("DPH") received ten (10) items of correspondence containing comments. Testimony presented at the April 25, 1996 Health, Education, and Welfare public hearing in the House Chamber, and comments provided at the village meetings held in Garapan, San Vicente, and San Antonio, Saipan, and Tinian and Rota were also considered. A summary of those comments, and DPH's responses are set forth below.

#### Introduction

Comment: One commenter recommended that a clause addressing preventative health care be included in the introduction in order to emphasize that the Medical Referral Program should refer patients to a referral health care facility upon diagnoses, instead of when a patient is in an advanced stage of the disease.

Response: Although preventative health issues are of primary concern to DPH, and a current focus for DPH health educators, they are outside the scope of these Rules and Regulations. These Rules and Regulations address the medical referral process and how the Medical Referral Program is administered. The focus is on patients who may presently need medical referral services, when preventative health care measures can no longer effect the patient's health outcome.

It is the general policy of the Medical Referral Committee to refer a patient for medical care outside the CNMI when the patient's condition can no longer be adequately treated with the resources available in the CNMI. In some cases, this may be upon diagnosis of an illness; other times, it may be when the patient's illness has advanced to a degree that highly specialized medical care and equipment are required to properly care for the patient's case.

#### Medical Referral Program

Comment: One commenter inquired as to how "established referral health care facilities" outside the CNMI are selected, and whether a referral health care facility can be established randomly, as needed.

Response: DPH selects referral health care facilities based on the following factors: a) the ability to provide specialized health care services as a result of the facility's affiliation with highly trained medical specialists and utilization of state-of-the-art medical equipment; b) proximity to the CNMI (i.e., Guam, Hawaii, and the Philippines); c) the facility's willingness to accept medical referral patients from the CNMI; and d) the fees charged for the health care services. Those referral health care facilities to which DPH currently sends medical referral patients satisfy these factors and have proven capable of providing quality health care to the residents of the CNMI. In addition to hospitals, referral health care facilities include clinics, ancillary care providers affiliated with hospitals, and rehabilitation centers.

Referral hospitals are not selected randomly or simply on an "as needed" basis. Sending medical referral patients to facilities that do not regularly treat patients from the CNMI, are not familiar with the CNMI's medical referral process, and whose quality of medical care is unknown to the Commonwealth Health Center medical staff would likely result in confusion, reduced efficiency in making referral arrangements, and possibly compromised health care for the patient. A list of the established referral health care facilities has been added to the Rules and Regulations as <a href="https://example.com/Attachment1">Attachment 1</a>.

Comment: One commenter inquired about the status of the Liaison Offices in Guam, Hawaii, and the Philippines, and whether reference to these offices should be included in the Rules and Regulations.

Response: The Liaison Offices are operated through the Office of the Governor, not through DPH, and thus their operations are not within the scope of these Rules and Regulations.

#### Medical Referral Office

Comment: Several commenters mentioned that the responsibilities of the Medical Referral Office staff should be expanded to include such tasks as assisting patients with Medicaid coverage matters, arranging for all patient documentation, and keeping a record of which doctors are sent on transfers.

Response: Medical Referral Office staff currently advise potentially eligible patients who indicate that they have no means of paying for medical care about the availability of Medicaid coverage and how to locate the Medicaid Office. However, Medical Referral Office staff are not covered by the Federal - State Medicaid budget, and have not been trained to screen patients for Medicaid eligibility or to assist patients in preparing the required Medicaid forms.

With respect to the preparation of patient documentation, pursuant to section 6 of the Rules and Regulations, it is the responsibility of the primary care

physician and the patient to complete the necessary documentation for medical referral. The completed forms will be filed in the Medical Referral Office, and it will be the Medical Referral Office staff's responsibility to verify that the necessary forms are completed and included in the file. The Medical Referral Office staff does not have access to the information needed to complete the medical referral documents.

With respect to maintaining a record of those physicians sent on transfers, this task falls within the scope of responsibilities of the Director of Medical Affairs. Pursuant to section 5.4 of the Rules and Regulations, the Director of Medical Affairs will be involved in deciding which physicians will accompany patients on medical referral transfers. It will therefore be easier for the Director of Medical Affairs to maintain information on physician escorts, and not the Medical Referral Office staff.

#### Medical Referral Committee

Comment: Regarding section 3.1, one commenter recommended that this section specify how the committee makes decisions. Another commenter recommended that the members of the Medical Referral Committee remain anonymous.

Response: The process by which the Medical Referral Committee makes decisions is set forth in section 6.1(c) and (d) of the Rules and Regulations, "Procedures For Medical Referral."

It would be contrary to CNMI Government policy for members of the Medical Referral Committee to remain anonymous. Members of the Medical Referral Committee are appointed by the Secretary of Health, and operate as a DPH committee. Generally, the names of individuals serving on government committees are a matter of public interest, and this information should be available to the public. However, because of the confidential nature of the subject matter discussed by the Medical Referral Committee, committee meetings are not open to the public.

Comment: Regarding section 3.2, one commenter recommended that the Chairperson be required to call an emergency meeting, rather than making the decision to call such a meeting elective, and that the Rules and Regulations specify how many committee members were required to request an emergency meeting before one was held. Another commenter recommended that a Vice-Chairman be authorized to call an emergency meeting in the Chairman's absence.

Response: The Rules and Regulations are not intended to set forth protocol for Medical Referral Committee meetings. Because of the limited

number of Commonwealth Health Center medical staff, and the significant demands on the physicians' time, there is no set day and time established for Medical Referral Committee meetings. Committee members meet as frequently as necessary, and at times which are convenient to most of the Committee members. In emergency situations, two or three voting members may casually meet to discuss the patient's case and consider the need for referral. These emergency cases are then reviewed by the entire Committee at the next full committee meeting. Currently, there is not a Vice-Chairman of the Medical Referral Committee.

Comment: Regarding section 3.3, one commenter recommended that to encourage expediency in reviewing medical cases, the following language be added: "... responsibility of the Medical Referral Committee to screen and evaluate medical cases within a strict deadline brought before the Committee .."

Response: As discussed above, there is not an established schedule for Medical Referral Committee meetings, and currently it would not be feasible to establish one. Medical Referral Committee members meet as frequently as needed, often as frequent as once a week, or once every two weeks.

Comment: Regarding section 3.3, several commenters from Rota and Tinian expressed concern that transfers from the Rota Health Center and the Tinian Health Center had to be approved by the Medical Referral Committee. These commenters noted that requiring Committee approval resulted in prolonged delays for patients needing medical care, and created burdensome paperwork for Rota Health Center and Tinian Health Center physicians and administrators. The commenters recommended that transfers to the Commonwealth Health Center should require only a consultation between the Rota Health Center or Tinian Health Center physician and the appropriate Commonwealth Health Center physician, and assistance by the Medical Referral Office staff to arrange for the transfer.

Response: DPH agrees that transfers from the Rota Health Center, Tinian Health Center, and the Northern Islands medical facility should be less bureaucratic and burdensome. By facilitating the transfer process, DPH can assure that all residents of the CNMI have access to the health care resources available. DPH has therefore modified section 3.3 of the Rules and Regulations to no longer require Medical Referral Committee review and approval for transfers from the Rota Health Center, Tinian Health Center, and the Northern Islands medical facility. The process for patient transfers to the Commonwealth Health Center will be set forth in a DPH policy. Section 8 of the Rules and Regulations was also modified to delete the provision requiring Medical Referral Committee review and approval for follow-up medical appointments for Rota, Tinian, and Northern Islands patients at the Commonwealth Health Center.

Comment: Regarding section 3.4, one commenter expressed concern as to how the public can be assured "that the Medical Referral Committee's decisions are strictly impartial and de-politicized." This commenter proposed that medical referral decisions be based solely on medical considerations, and not on other arbitrary and capricious factors.

Response: Under prior medical referral policies, the decision of the Medical Referral Committee could be appealed to the Secretary of Public Health. It was this appeals process that led numerous people to believe that medical referral decisions were not impartial and based solely on medical considerations, but instead were based on political factors. As currently drafted, the Rules and Regulations have abolished this appeals process, and grant the Medical Referral Committee with full and final authority to decide whether a medical referral is medically warranted. By providing the Medical Referral Committee with exclusive decision making power, DPH intends to ensure that medical referral decisions are based on health care considerations only, and not a patient's political status or influence.

#### Program Eligibility

Comment: Regarding section 4.1, several commenters asserted that the Medical Referral Committee and DPH should establish a system of priority for making medical referral decisions. By specifying the types or categories of medical cases which would receive priority referral, the Medical Referral Committee could have definite guidelines for assessing eligibility.

Response: It would be virtually impossible to create specific guidelines for prioritizing medical referral cases. Every patient's medical case is unique, and should be considered that way. A decision to send a patient on medical referral is based both on objective medical criteria, and subjective information known to the patient's attending physicians, such as age, overall health condition, the patient's willingness to comply with prescribed treatment, and the short term prognosis. These factors are weighed by the Medical Referral Committee in each medical referral case, even if the patient has a medical condition which typically results in a medical referral.

Furthermore, at this time, DPH does not have available health care statistics indicating which type of medical cases usually are benefitted by a medical referral. Without this information, DPH cannot make a reasoned decision on how to prioritize medical referral cases. Once the specialized medical referral computer software is installed in the Medical Referral Office, DPH can begin compiling data on the types of medical referral cases that arise, patient health outcomes upon return from medical referral, and the likelihood of improved health prognoses as a result of the medical referral.

Comment: Regarding section 4.2, many of the commenters recommended that a definition of residency be included in the Rules and Regulations. Several commenters requested that the specific number of days an individual must spend in the CNMI to satisfy the residency criteria be added. One commenter found the last paragraph of section 4.2 unclear because the Rules and Regulations do not state whether the Medical Referral Office will require documentation for all eight items enumerated in this section, or whether documentation for some of the items will suffice.

Response: A definition of "residence," as defined by U.S. Supreme Court decisions, has been added to section 4.2 of the Rules and Regulations. As this definition indicates, residency, in part, is a question of the individual's intent. Thus, under the Rules and Regulations, a person who has resided in the CNMI for only two weeks but who has the intent of living in the CNMI for an indefinite period of time would satisfy the residency requirement. Conversely, a person who spends half a year in the CNMI on holiday, but who actually resides in a foreign country would not satisfy the residency criteria. (Although the Medical Referral Office would be able to assist with coordinating with the person's national consulate for transport back to the country of origin.) It is therefore improvident for the Rules and Regulations to establish a definite indicator as to how many days in the CNMI per year constitutes residence.

Section 4.2(b) was also amended to clarify that a patient's overall situation in the CNMI will be considered in determining eligibility, not just the eight items listed as examples.

Comment: Regarding section 4.2, one commenter inquired whether citizens of the Republic of the Marshall Islands, the Federal States of Micronesia, the Republic of Palau, and various nonresident workers were covered under section 4.2.

Response: If citizens of other nations satisfy the eligibility criteria of section 4, they are eligible for participation in the Medical Referral Program as provided by the Rules and Regulations.

Comment: Regarding section 4.3(a), one commenter recommended that the Rules and Regulations specify the amount of time an individual must stay outside the CNMI before becoming ineligible for participation in the Medical Referral Program.

Response: As discussed above, DPH is unable to establish a bright line test for determining when a person's absence from the CNMI demonstrates that the person no longer resides in the CNMI. It will be the responsibility of the Medical Referral Office staff to consider all available factors in concluding that a person resides in the CNMI, or somewhere else. Clearly, the Medical Referral

Program would not cover persons from the CNMI who are living outside the CNMI, such as in the mainland United States, Japan, or the Philippines. Persons living in such places have easy access to quality medical care, and do not face the same transportation barriers to health care as those persons residing in the CNMI. For example, students and retirees would not be eligible for the Medical Referral Program while living outside the CNMI.

Comment: Regarding section 4.3(c), one commenter noted that it may be difficult to prove that a person had established residency in the CNMI for the sole purpose of obtaining a medical referral.

Response: DPH acknowledges that it may be difficult to establish that a person sought residency in the CNMI for the sole purpose of obtaining a medical referral. In the past, as a result of a close health care community network and reasonably easy access to information, the Medical Referral Office staff have been able to identify those persons who moved to Saipan solely to obtain a medical referral.

Comment: Regarding section 4.3(d), one commenter advocated that it was unfair to treat residents traveling on CNMI Government business differently from those traveling outside the CNMI who are not on CNMI Government business.

Response: The Rules and Regulations were modified so that anyone traveling outside the CNMI is ineligible for participation in the Medical Referral Program. As explained above, individuals traveling in other countries will be able to access those countries' medical facilities without the same barriers to health care that residents of the CNMI face.

#### Covered Benefits Under The Medical Referral Program

Comment: Regarding section 5.1(a), one commenter advised that blood transfusions and laboratory services be included under inpatient care benefits. The commenter also noted that "referral health care facility" may include third-party providers other than the referral hospital.

Response: Blood transfusions and laboratory services have been added to section 5.1(a) of the Rules and Regulations. As set forth in the new <a href="Attachment 1">Attachment 1</a> to the Rules and Regulations, those ancillary care providers that provide services in conjunction with the "referral health care facility" are included within the Medical Referral Program.

Comment: Regarding section 5.2(b), one commenter asserted that patients should not be responsible for paying the "replacement value" for

unreturned medical equipment; charging the patient "fair market value" for unreturned medical equipment is more typical and appropriate.

Response: The objective of section 5.2(b) of the Rules and Regulations is to strongly encourage patients to return medical equipment that is loaned to them by the Commonwealth Health Center. It can be difficult for the Commonwealth Health Center to procure the necessary medical equipment for long-term, out-patient care. If patients damage or lose the loaned equipment, it may take the Commonwealth Health Center several months to purchase replacement equipment. Meanwhile, other patients who need the equipment may have to make due without it. In addition, the cost of medical equipment is constantly rising. If a patient loses or damages a six month old piece of equipment, recovering the fair market value of the equipment from the patient may not be enough to cover the cost of purchasing new equipment. By charging patients the replacement value of lost or damaged equipment, patients will have a greater incentive to take responsibility for the maintenance of expensive medical equipment, and for returning the equipment in the condition they received it, considering normal use.

Comment: Regarding section 5.4(a), one commenter provided revised standards for the Medical Referral Committee to consider in determining whether a physician, nurse, and/or respiratory therapist escort are necessary for the patient transport.

Response: DPH has incorporated these comments into the Rules and Regulations.

Comment: Regarding section 5.4(b)(v), one commenter advised that the approval of a family escort in situations where the patient was unable to make himself or herself understood in English was overbroad and subject to abuse.

Response: This provision has been deleted from the Rules and Regulations. Whether a patient is incapable of traveling alone because of a language barrier will be evaluated by the Medical Referral Committee on a case by case basis after a consideration of all relevant factors, such as the purpose of the medical referral, the length of time traveling, and whether interpreters are available in route and at the referral health care facility.

Comment: Regarding section 5.4(b)(vii), one commenter recommended that an escort be approved when there was a "strong possibility" that the patient will die, instead of a "high probability."

Response: This modification was made to the Rules and Regulations.

Comment: Regarding section 5.5, one commenter noted concern that the \$20.00 daily subsistence allowance for out-patients and patient escorts was too low.

Response: The purpose of the subsistence allowance is to provide some financial assistance to compensate for the increased cost of food and sundries in the city where the referral health care center is located. The subsistence allowance is not intended to fully subsidize a patient's or escort's food costs. If a patient was receiving out-patient care at the Commonwealth Health Center, he or she would be paying for food in the CNMI. Patients are therefore expected to contribute to their food costs while on medical referral.

#### **Procedures For Medical Referral**

Comment: One commenter stated that in order to provide a patient with necessary due process protections, the patient must be provided with written notice by the Medical Referral Office staff regarding the patient's eligibility for medical referral under section 4 of the Rules and Regulations, and written notice of the Medical Referral Committee's decision regarding the medical referral. The commenter further asserts that the patient would have the right to appeal the Medical Referral Office's or the Medical Referral Committee's decisions under the Administrative Procedure Act.

Response: Section 6.1(d) of the Rules and Regulations was modified to require the Medical Referral Office to advise the primary care physician and the patient in writing of the Medical Referral Committee's decision.

DPH does not agree that decisions of the Medical Referral Committee are subject to the Administrative Procedure Act. An individual's right to appeal an agency decision under the Administrative Procedure Act applies when an agency's adjudication results in the imposition of a sanction. Denial of a medical referral is not a "sanction" under the Administrative Procedure Act. The Act defines a "sanction" as:

a) Prohibition, requirement, limitation, or other condition affecting the freedom of a person; b) Withholding of relief where adjudication is required by law; c) Imposition of penalty or fine; d) Destruction, taking, seizure, or withholding of property; e) Assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; f) Requirements, revocation, or suspension of a license; or g) Taking other compulsory or restrictive action. 1 CMC §9101(o).

A government sponsored medical referral is not a constitutional right. Thus, the denial of a medical referral because of medical considerations and other factual

circumstances impacting a patient's case does not result in a restriction, infringement, or taking in violation of a person's constitutional rights.

Comment: One commenter states that section 6.2 should contain a provision requiring that documentation evidencing the need for an emergency referral be included in the patient's file.

Response: Providing thorough medical documentation for each patient's case is a standard part of the Commonwealth Health Center's health care delivery system. The relevant medical records of a patient approved for emergency medical referral are provided to the Medical Referral Office staff for purposes of making all necessary referral arrangements for the patient. The Medical Referral Office staff then maintains this documentation in the medical referral files.

#### Transfers From Rota, Tinian, and the Northern Islands

Comment: Several commenters from Rota stated that patients transferred from the Rota Health Center to the Commonwealth Health Center should receive a \$20.00 subsistence allowance.

Response: To provide patients from Rota, Tinian, and the Northern Islands with a \$20.00 subsistence allowance would bestow upon them a benefit which is not available to residents of Saipan. Patients from Rota, Tinian, and the Northern Islands receiving out-patient treatment at the Commonwealth Health Center are within the Commonwealth, and should be responsible for their own food costs in Saipan, just as they would be on Rota, Tinian, or the Northern Islands

Comment: One commenter questioned how residents from Rota, Tinian, and the Northern Islands would be accommodated when the guest house was full.

Response: Optimally, residents of Rota, Tinian, and the Northern Islands are scheduled for out-patient visits at the Commonwealth Health Center in the morning, to allow the patient to receive the needed medical attention, and then return home that evening. Scheduling appointments in this manner minimizes the demand for rooms at the Rota and Tinian guest house. In the event a resident of Rota, Tinian, or the Northern Islands must remain on Saipan for more than one day, and space is unavailable in the guest house, the patient would be responsible for making his or her own arrangements for accommodations.

#### Medical Referral Program Exclusions

Comment: Regarding section 9.5, one commenter advised that the word housing be defined to exclude government-furnished accommodations provided in section 5.5.

Response: This modification was made to the Rules and Regulations.

Comment: Regarding section 9.8, one commenter stated that under the Early Prevention, Screening, Diagnostic, and Treatment Act, a federal law which provides extra protection for children who qualify for participation in the Medicaid program, DPH cannot deny an organ transplant to a child under age 21 when such treatment is necessary "to correct or ameliorate defects and physical illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan." 42 U.S.C. §1396(d).

Response: As a participant in the Medicaid program, the CNMI is required to comply with the statutory and regulatory requirements governing the program. Minors who may fall within the scope of the Early Prevention, Screening, Diagnostic, and Treatment Act will receive specialized screening by the Medical Referral Committee and the Medicaid Office to determine eligibility.

Comment: Regarding section 9.9, one commenter recommended that second opinions be included under the Medical Referral Program when recommended by the patient's primary care physician.

Response: Medical referrals for second opinions are not included in the Medical Referral Program because of the potential for excessive use, and the high costs associated with sending a patient to a referral health care facility for the sole purpose of an additional consultation. Because resources are limited, DPH must consider how to utilize the money budgeted for medical referrals to achieve the greatest benefit for the CNMI population. DPH has determined that the best use of the allocated money is for actual medical care and treatment. instead of additional physician consultations. Furthermore, patients may obtain a second opinion from a Commonwealth Health Center physician who has not acted in the capacity as the patient's primary care provider.

#### Referral Fees

Comment: Regarding section 11.1, several commenters questioned the purpose of the \$25.00 administrative fee and which government account would be credited with the fee. Another commenter queried how the Medical Referral Office staff will bill the administrative fee in emergency cases.

Response: DPH has determined that the assessment of the \$25.00 administrative fee will ultimately be impracticable. This section was deleted from the Rules and Regulations.

Comment: Regarding section 11.2(b), one commenter pointed out that several insurance companies make their own arrangements for member patients approved for a medical referral. This commenter was concerned whether the Medical Referral Office would work in conjunction with these insurance companies.

Response: The Rules and Regulations have been amended to specify that medical referral costs will be covered by the patient's insurance company as provided pursuant to the terms and conditions of the patient's health care insurance policy. If the patient's insurance policy states that the insurance company will make arrangements for patients' medical referral, then Medical Referral Office staff will allow the insurance company to handle the necessary arrangements. However, payment for medical referral costs will only be to the extent provided in the Rules and Regulations.

Comment: Regarding section 11.2(d), one commenter recommended including non-custodial parents of minor children as third-party payors.

Response: Reference to financially responsible adults paying the medical referral costs of their minors was added to section 11.1(e) (formerly 11.2(e)).

Comment: Regarding section 11.2(f), one commenter stated that the language was confusing and ambiguous, and was concerned that indigent patients could be personally liable for 5% of the medical bills after payment by the Medical Referral Program of 95% of the medical bills. Another commenter recommended that the words "verifiable documentation" in the last paragraph be defined.

Response: The commenter is correct that pursuant to the Rules and Regulations, even those patients who fall within the indigency scales will be responsible for paying a small portion of the medical bills incurred during their medical referral. Those patients who do not have third-party payor coverage for medical costs but who qualify for the highest level of assistance will be responsible for paying 5% of their medical bills; patients who qualify for the second level of assistance will be responsible for paying 30% of their medical bills. If the Medical Referral Office determines that a patient is in fact destitute and unable to work, then the patient's medical bills will have to be set aside as an uncollectible debt. However, the current intent of the Rules and Regulations is to require everyone to pay something towards the cost of their medical referral.

Language clarifying the phrase "verifiable documentation" was added to section 11.1(f) (formerly 11.2(f)) of the Rules and Regulations.

Comment: Regarding section 11.4, one commenter recommended that utilization review be performed for all medical referral cases, not just those medical referral cases in Hawaii referral health care facilities.

Response: This modification was made to the Rules and Regulations.

Comment: Regarding section 11.5, several commenters expressed concern that the \$50,000 lifetime cap was too low, and not realistic considering the high cost of medical care. One commenter suggested that if the amount of the cap was fixed, then individuals should be allowed to assign their medical referral rights to other family members or friends who had reached or exceeded their lifetime limit.

Response: The \$50,000 lifetime cap is intended to satisfy two primary objectives. First, it ensures that no single patient uses a majority of the medical referral budget in any one year. The cap thus serves as a safeguard to assure that available resources will be allocated among CNMI residents in the most equitable manner possible. Second, the \$50,000 cap is intended to encourage individuals to obtain private health care insurance coverage, or some other means of financial assistance, for payment of medical bills. If an individual has insurance coverage which pays 80% to 100% of incurred medical bills, the \$50,000 cap should be more than sufficient to cover a patient's lifetime of medical referral costs.

#### Penalties For Violations

Comment: Several commenters were unclear as to whom the penalties were intended to apply.

Response: Any person, whether a DPH employee, a government employee working outside DPH, a referral health care provider, or a patient may be legally pursued for violations of the Rules and Regulations.

## RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

#### INTRODUCTION

The criteria and procedures established in these Rules and Regulations for patient medical referrals are designed to provide residents of the CNMI with a means of receiving medical care and treatment which is not available within the Commonwealth. By sending patients approved for medical referral to established referral health care facilities for extended medical care and treatment, the Medical Referral Program can expand the range of medical specialties and procedures attainable for enhanced patient health. In establishing this Medical Referral Program, it is incumbent upon the CNMI Government to manage the Program's operations to ensure that the health care benefits afforded to residents of the CNMI are provided in a reasonable and equitable manner. It is therefore an objective of these Rules and Regulations to contain the costs of medical referrals by excluding unnecessary referrals, minimizing inappropriate lengths of stay at the referral health care facility, and establishing a cost-sharing mechanism with the patient. The procedures set forth below are essential to a cost-effective health care program.

#### I. Medical Referral Program

There is hereby established a Medical Referral Program within the Department of Public Health which shall facilitate the referral of patients to recognized referral health care facilities outside the CNMI for extended medical care as set forth in these Rules and Regulations. A list of recognized "referral health care facilities," as referenced throughout these Rules and Regulations, is included as <a href="Attachment 1">Attachment 1</a> hereto. Financial assistance for medical care outside the CNMI, and related costs, shall be available as provided in these Rules and Regulations to the extent that funds for the program are appropriated by the CNMI Legislature. If in any fiscal year, appropriated funding for the Medical Referral Program is exhausted prior to the end of the fiscal year, the Medical Referral Program shall cease operations until additional funding is appropriated or reprogrammed for its operations.

#### II. Medical Referral Office

There is hereby established a Medical Referral Office within the Department of Public Health which shall be headed by a Medical Referral Officer appointed by the Secretary of Public Health. The duties and responsibilities of the Medical Referral Office shall include the following:

- 2.1. Assisting the patient's primary care physician to ensure that all necessary documentation is included with a patient's petition for medical referral prior to the patient's case being submitted to the Medical Referral Committee for review.
- 2.2. Making all arrangements for patient medical referral, including verifying that sufficient funds exist to cover any medical referral costs chargeable to the Medical Referral Program, scheduling doctor appointments, arranging for air and ground transportation, and arranging for accommodations.
- 2.3. Communicating with the various CNMI Liaison Offices to verify and confirm arrangements for patients arriving or departing the city where the referral health care facility is located, and to obtain continuous updates on the medical status of referral patients.
- 2.4. Maintaining records of: the names of patients petitioning for medical referral; the patients' diagnosis; patients approved and denied medical referral; the names of any escorts accompanying patients; the names of the referral health care facility physicians to whom patients are sent; the treatment to be provided to the patients; and the costs associated with the medical referrals.
- 2.5. Maintaining medical referral data including the following: the number of cases considered for medical referral within a fiscal year; the number of cases approved and disapproved; the medical justification for the referrals; the medical justification for the denied cases and the alternatives offered to the patients; the status of patients sent on medical referral and of those denied medical referral; a financial analysis depicting costs based on the medical treatment provided to patients; a summary of the type of cases approved

for medical referral and of the treatment and care provided at the referral health care facility.

- 2.6. Reviewing patient medical bills from the referral health care facility providers, verifying the validity of the medical bills, and approving for payment those medical bills which are the financial responsibility of the Medical Referral Program.
- 2.7. Assisting in the preparation of an annual budget for the Medical Referral Program.
- 2.8. Performing other duties and responsibilities as assigned by the Secretary of Public Health.

#### 111. **Medical Referral Committee**

- 3.1. Composition. There is hereby established a Medical Referral Committee which shall be comprised of six (6) voting members appointed by the Secretary of Public Health. The voting members shall be clinically privileged Commonwealth Health Center medical staff who practice in various specialty areas. A representative from each of the following Department of Public Health divisions or units shall attend the Medical Referral Committee meetings to facilitate the medical referral process, but shall not be voting members of the Committee: Medical Referral Office; Social Services; Utilization Review; Medicaid Office: and Vocational Rehabilitation Services. The Secretary of Public Health shall serve as an ex-officio member of the Committee.
- 3.2. Chairperson. At the beginning of each fiscal year, the Medical Referral Committee shall elect a Chairperson from among the voting members to serve for a one year term. The Chairperson shall schedule regular meetings of the Medical Referral Committee and advise each voting member and non-voting participant of the date and time of the meeting at least one week prior to the scheduled date of the meeting. The Chairperson may also call emergency Medical Referral Committee meetings whenever necessary, or upon the request of the voting members of the Committee or the Secretary of Public Health.

- 3.3. <u>Case Review</u>. It shall be the sole responsibility of the Medical Referral Committee to screen and evaluate medical cases brought before the Committee on a petition for medical referral, including requests for additional patient treatment not initially authorized, and requests from referral health care facility physicians to refer the patient to a second referral health care facility for additional care. After a complete case evaluation, the Medical Referral Committee shall determine whether a referral for medical care is warranted.
- 3.4. <u>Decisions Final</u>. Decisions of the Medical Referral Committee shall be final, except as provided in Section 6.4 of these Rules and Regulations.
- 3.5. Review of Emergency Medical Referral Cases. All medical referral cases approved on an emergency basis pursuant to Section 6.2 of these Rules and Regulations shall be reviewed by the Medical Referral Committee at the next regular meeting for assessment of whether the referral was justified. Any referral found to be unjustified by the Medical Referral Committee shall be treated as an unauthorized medical referral.
- 3.6. <u>Modifications to These Rules and Regulations</u>. Prior to the end of each fiscal year, the Medical Referral Committee shall submit a list of recommended changes to these Medical Referral Program Rules and Regulations, if any, to the Secretary of Public Health.
- 3.7. <u>Approval of Reports</u>. The Medical Referral Committee shall approve all written and financial reports relating to the Medical Referral Program before they are submitted by the Secretary of Public Health to the Governor or the Commonwealth Legislature.

#### IV. Program Eligibility

For a patient to be eligible for consideration for medical referral through the Medical Referral Program, each of the criteria set forth in Sections 4.1 and 4.2 must be satisfied:

#### 4.1. Medical Criteria.

- a. The patient must be evaluated by a CNMI licensed physician who is the primary care provider. Medical specialists visiting the CNMI to provide limited term health care services shall not initiate a patient medical referral.
- b. After a thorough diagnosis of the patient's case, and full utilization of the resources available within the CNMI, including consideration of forthcoming visits by medical specialists, the primary care physician must determine that the health care services required to satisfactorily treat the patient's illness or condition cannot adequately be provided within the CNMI.
- c. The patient's illness or condition, including diagnosis and prognosis, must substantiate the need for the medical referral. The primary care physician must be prepared to demonstrate to the Medical Referral Committee that the medical referral would significantly benefit the patient's health outcome.

#### 4.2. Residency Criteria

- a. The patient must be a United States citizen residing in the CNMI, or other individual who has established legal residence in the CNMI at the time the patient submits a petition for medical referral.
- b. For purposes of these Rules and Regulations, "residence" shall mean "the place where a person maintains an abode, with the intention of remaining permanently, or for an indefinite period of time." It shall be the responsibility of the patient, or patient representative, to demonstrate residence in the CNMI to the satisfaction of the Medical Referral Office staff. In determining the residence of a patient, Medical Referral Office staff shall consider the patient's overall situation in the CNMI, including the following:

- i) the number of days spent in the CNMI each year;
- ii) employment within the CNMI;
- iii) enrollment in a CNMI school;
- iv) possession of a valid CNMI drivers license;
- v) current postal address within the CNMI;
- vi) whether a CNMI personal income tax return was filed with the Department of Finance for prior years;
- vii) enrollment in other CNMI welfare programs such as the Medicaid program, Food Stamps program, or Low Income Housing Energy Assistance Program; and
- viii) any other evidence considered by Medical Referral Office staff as indicative of residence within the CNMI.

#### 4.3. Persons Ineligible for Participation In the Program

The following categories of persons are ineligible for participation in the Medical Referral Program:

- a. Former residents of the CNMI who are no longer residing in the CNMI;
  - b. Persons who have entered the CNMI under tourist visas;
- c. Persons who establish residency in the CNMI for the sole purpose of obtaining a medical referral;
- d. Residents of the CNMI and their dependents who are traveling abroad;
- e. Residents of the CNMI and/or their dependents who exercise their right to obtain medical care outside the CNMI Government health

care system and obtain medical care which has not been previously authorized by the Medical Referral Committee; and

f. Persons who have entered the CNMI or are residing in the CNMI in violation of the CNMI Immigration laws.

#### V. Covered Benefits Under The Medical Referral Program

Subject to the payment guidelines set forth in Section 11 of these Rules and Regulations, the Medical Referral Program provides for the following medical, ancillary, transportation, escort, and maintenance benefits for a patient authorized for a medical referral:

#### 5.1. Medical Costs.

- a. <u>Inpatient Medical Care</u>. Inpatient medical care at a referral health care facility for the following health care services: i) necessary admission to special units such as intensive care or coronary care; ii) necessary admissions to the operating room and recovery room; iii) anesthesia services; iv) X-rays, radiology services, and other such investigatory services; v) radiation therapy; vi) blood transfusions; vii) laboratory tests; viii) regular nursing care services; ix) prescribed rehabilitative therapy; x) medical supplies such as casts, surgical dressings, and splints; xi) drugs furnished by the referral health care facility during the hospital stay; xii) use of appliances such as wheelchairs; xiii) a semi-private room (2 to 4 beds to a room); ix) all hospital meals, including those which require special preparation for particular diets.
- b. <u>Outpatient Care</u>. Outpatient medical care at a referral health care facility for the following health care services: i) services in an emergency room or outpatient clinic, including ambulatory and surgical procedures; ii) blood transfusions furnished to the patient on an out-patient basis; iii) laboratory tests; iv) X-rays, radiology services, and other such investigatory services; v) radiation therapy; vi) medical supplies such as splints and casts; vii) drugs and biological products which cannot be self-administered.
- c. <u>Professional Fees</u>. Fees for professional health care services specifically authorized by the Medical Referral Committee in the

Treatment Authorization Form. Professional fees for health care services beyond those approved by the Medical Referral Committee, or for the health care services of medical specialists not listed in the Treatment Authorization Form, are not covered under the Medical Referral Program unless the written authorization of at least two members of the Medical Referral Committee is obtained prior to the rendering of such additional health care services in non-emergency situations.

### 5.2. Ancillary Costs.

- a. <u>Prescribed Drugs</u>. Drugs prescribed for the cure, mitigation, or prevention of disease, or for health maintenance if:
- i) prescribed in writing by a licensed referral health care facility physician, or other referral health care facility licensed practitioner authorized to prescribe drugs under state law;
- ii) dispensed by a licensed pharmacist or licensed practitioner authorized to dispense drugs who records and maintains the written prescription in the pharmacy records; and
- iii) they cannot be dispensed without a prescription (i.e., over-the-counter drugs excluded).
- b. <u>Durable Medical Equipment</u>. Durable medical equipment provided by the referral health care facility which is essential for the management of the patient's condition during transfer to the CNMI. Examples of durable medical equipment covered by this subsection are portable oxygen equipment, cardiac monitoring equipment, or mechanical ventilators. Such durable medical equipment provided to patients under the Medical Referral Program shall become the property of the Commonwealth Health Center and must be turned over by the patient after it is no longer needed. Patients who fail to deliver to the Commonwealth Health Center any durable medical equipment provided to them by the referral health care facility after they are no longer using it shall be charged the replacement value for the equipment.

## 5.3 Transportation Costs.

- a. <u>Air Transportation</u>. The least expensive, round trip air transportation for the medical referral patient, considering the patient's condition for travel, to the referral health care facility.
- b. <u>Ambulance Transportation</u>. The cost of medically necessary ambulance transportation for the medical referral patient from the Commonwealth Health Center to the Saipan International Airport; from the city airport in which the referral health care facility is located to the referral health care facility; and as otherwise approved by the Medical Referral Committee.
- 5.4 <u>Patient Escorts</u>. Medical personnel and/or one family member or close friend to serve as a patient escort in the following situations, as authorized by the Medical Referral Committee:
- a. <u>Physician, Nurse, or Respiratory Therapist Escort.</u> The Medical Referral Committee, in conjunction with the patient's primary care physician, shall determine whether it is necessary for a physician escort, nurse escort, respiratory therapist escort, or two of the above, to accompany the patient to the referral health care facility to ensure adequate medical care in transit. The following guidelines shall be considered by the Medical Referral Committee and the primary care physician in deciding whether a medical escort is needed:
- (i) <u>Physician Escorts</u>. A physician escort should accompany a medical referral patient whenever there is a high likelihood that the patient's medical condition could change during the transport and it may be necessary for the physician to make a diagnosis, stabilize the patient, or provide acute treatment for the patient.
- (ii) <u>Nurse Escorts</u>. A nurse escort should accompany a medical referral patient whenever the patient will require nursing services (e.g., the patient requires monitoring of vital signs and other nursing care, intravenous lines must be maintained for the patient, or medications must be administered to the patient by means of intravenous or intramuscular injection, or by a feeding

tube during the transport), and the patient is stable and his or her medical condition is unlikely to change.

(iii) Respiratory Therapist Escort. A respiratory therapist escort should accompany a medical referral patient whenever the patient will require respiratory therapist services (e.g., patient in respiratory failure who requires a ventilator or other breathing assistance), and the patient is stable and his or her medical condition is unlikely to change.

The patient's primary care physician, in conjunction with the Director of Medical Affairs and the appropriate Nurse or Respiratory Therapist Supervisor, shall decide which members of the Commonwealth Health Center medical staff, nursing staff, and/or respiratory therapist staff shall accompany the patient. In those cases where a physician, nurse, and/or respiratory therapist escort accompany the patient, it shall be such escort's responsibility to:

- (1) assist and attend to the patient during the flight;
- (2) ensure that the patient's medical documents are turned over to the appropriate personnel from the referral health care facility; and
- (3) ensure that all medical instruments, pillows, sheets, and other hospital supplies used during the medical transport are accounted for and returned to the Commonwealth Health Center.
- b. <u>Family Escorts</u>. The least expensive, round trip air transportation accompanying patient; medically necessary ambulance transportation accompanying patient; accommodations; and a subsistence allowance for one non-medical escort, such as a family member or close friend of the patient, as provided by these Rules and Regulations. Unless specifically determined by the Medical Referral Committee to be unnecessary, the Medical Referral Committee shall approve one family or friend escort for the patient in those cases where the patient is unable to travel independently because of:
  - i) physical disability, frailty, or age;
  - ii) psychiatric disability or mental deficiency;

- iii) blindness or deafness;
- iv) fecal or urinary incontinence requiring the patient to seek assistance to use the toilet;
- v) the patient's inability to feed himself or herself or to perform other activities of daily living; or
- vi) the strong possibility that the patient will die at the referral health care facility as a result of the severity of the illness or condition.

If no medical escort accompanies the patient, it shall be the responsibility of the family or friend escort to perform those duties set forth in Section 5.4.a. (1), (2), and (3) above.

### 5.5. Maintenance Costs.

- a. <u>Accommodations and Subsistence Allowance</u>. Accommodations and a daily subsistence allowance as follows:
- i) <u>In-Patient Referrals</u>. Room and board for in-patients are provided through the referral health care facility. In-patients shall not receive any cash subsistence allowance.
- ii) <u>Out-Patient Referrals</u>. Out-patients on medical referral shall receive reasonable accommodations at CNMI government expense, and Twenty Dollars (\$20.00) per day subsistence allowance.
- iii) <u>Patient Escorts</u>. Authorized family or friend escorts shall receive reasonable accommodations at CNMI government expense, except that whenever possible, the escort shall share a room with the medical referral patient. Authorized family or friend escorts shall be provided Twenty Dollars (\$20.00) per day subsistence allowance.

It shall be the responsibility of the escort to file a travel voucher and any other requested documentation with the Medical Referral Office within

- ten (10) days of return from the medical referral. It shall then be the responsibility of the Medical Referral Office staff to forward these documents to the Department of Finance, Accounting and Travel Section. If the escort fails to comply with the prescribed time lines, the CNMI government reserves the right to seek reimbursement from the escort for the costs incurred in connection with the escort's referral travel.
- b. Right To Refuse Government Room and Board. Medical referral patients and authorized family or friend escorts have the right to refuse CNMI government arranged accommodations. However, if a patient and/or family or friend escort make independent arrangements for accommodations, the CNMI government shall not be liable for any expenses incurred with respect to the accommodations during the medical referral.

#### VI. Procedures For Medical Referral

- 6.1. <u>Non-Emergent Referral Cases</u>. All non-emergent patient cases which may be appropriate for medical referral shall comply with the following procedures:
- a. Physician Assessment. Once the patient's primary care physician has made a thorough evaluation of the patient's illness or medical condition and determined that the patient satisfies the medical criteria for medical referral as provided in Section 4.1 of these Rules and Regulations, the primary care physician shall discuss the patient's case with the chairperson of the applicable medical department, or if the primary care physician is the chairperson, then with another physician in the applicable medical department, to obtain a second opinion on whether the patient's case is appropriate for a petition for medical referral. If both physicians concur that the patient's case should be forwarded to the Medical Referral Committee for review, the primary care physician shall contact the appropriate physician specialist at a referral health care facility to discuss the patient's case and to assess the available treatment at the referral health care facility.
- b. <u>Medical Referral Documentation</u>. If, after a complete assessment of the patient's case as specified above in Section 6.1.a, the primary care physician determines that the patient's case is appropriate for a petition for

medical referral, the primary care physician shall confirm with the Medical Referral Office staff that the patient satisfies the eligibility criteria for medical referral set forth in Section 4.2 of these Rules and Regulations. If the patient is found to be eligible, the primary care physician shall prepare a typed medical report, obtain any relevant laboratory and/or X-ray reports, and complete the following forms:

- i) Patient Referral Record (Form CHC 62-0255 1186)
- ii) Consultation Report Form (Form CHC 60-0022 1186)
- iii) Air Travel Medical Report (Form CHC 60-0258 1186)
- iv) Treatment Authorization Form (Form CHC 62-0448)

The primary care physician shall submit the completed forms and other pertinent reports and information to the Medical Referral Office.

- c. <u>Case Presentation</u>. The primary care physician shall present the patient's case to the Medical Referral Committee at the next regular Committee meeting. It shall be the responsibility of the primary care physician to present the prepared documentation, explain the patient's illness or medical condition and why medical referral is appropriate, and answer any questions raised by the Medical Referral Committee.
- d. Medical Referral Committee Determination. The Medical Referral Committee shall consider the primary care physician's presentation, review the documentation, assess whether the patient's condition can be adequately treated with the resources available within the CNMI, and decide whether medical referral of the patient is warranted. The decision of the Medical Referral Committee shall be final, except as provided in Section 6.4. The Medical Referral Officer shall promptly advise the primary care physician of the Medical Referral Committee's decision regarding the patient's case. The Medical Referral Officer shall subsequently send written notice of the Medical Referral Committee's decision to the primary care physician and to the patient.
- e. <u>Execution of Medical Referral Authorization Documentation</u>. If the patient's case is approved for medical referral, two voting members of the

medical referral committee shall sign the Patient Referral Record. The authorization documentation shall then be forwarded to the Secretary of Public Health or, in his absence, the Deputy Secretary of Public Health, for signature.

- f. Medical Referral Arrangements. The primary care physician shall provide the Medical Referral Office staff with the time frame and method for transferring the patient to the referral health care facility. The Medical Referral Office staff shall make all medical, travel, and accommodation arrangements in the city where the referral health care facility is located. The Medical Referral Office staff shall also inform the CNMI Liaison Office in such city of the patient's travel schedule, and of the other appointments and arrangements which have been made for the patient. The patient must have a confirmed appointment with the referral health care facility physician prior to departing the CNMI.
- g. <u>Documents To Be Prepared By Patient</u>. Prior to the patient's departure from the CNMI, the Medical Referral Office staff shall require the patient, or patient representative, to complete the following forms:
  - i) Release of Liability
  - ii) Consent to Receive Medical Treatment
  - iii) Payment Agreement
  - iv) Subrogation of Claims Form
  - v) Power of Attorney (when appropriate)
- 6.2. <u>Emergency Referral Procedures</u>. In those cases where the primary care physician determines that the patient is in a critical medical condition, and must receive emergency medical care which cannot adequately be provided in the CNMI, thereby justifying immediate evacuation of the patient to the referral health care facility, the following procedures shall be followed:
- a. <u>Expedited Approval</u>. The patient's primary care physician, after consultation with at least one of the voting Medical Referral Committee

members, may refer the patient without the case being reviewed by the full Committee.

- b. Notice to Referral Health Care Facility. The primary care physician shall contact the appropriate physician specialist, or another available physician, at the referral health care facility to report the imminent patient referral and to discuss the details of the patient's case.
- C. Medical Referral Documentation. The primary care physician shall prepare the forms required to be completed as set forth in Section 6.1.b.
- d. Medical Referral Arrangements. Medical Referral Office staff shall immediately contact the commercial airline's office or a travel agency to make the referral patient's travel arrangements. Copies of the CNMI government Travel Request and Travel Authorization shall be delivered to the commercial airline or travel agency as soon as possible. Medical Referral Office staff shall also contact the CNMI Liaison Office in the city where the referral health care facility is located, and advise the Liaison Officer of the referral patient's name, sex, age, diagnosis, flight number, estimated time of arrival, and whether an ambulance, stretcher, and/or other supportive devices will be needed at the airport.
- Funding Approval. Travel Authorizations for patients needing emergency medical referral during non-working hours shall be executed by the Secretary of Public Health on the morning of the next business day following the emergency medical referral.
- f. Medical Evacuation. If an emergency medical referral is necessary and commercial airline transportation is unavailable, the Medical Referral Officer, or designee, shall first attempt to contact the Coordinating Officer at the Emergency Operations Center (EOC) and request an Air or Sea Rescue Unit. If the Coordinating Officer of the EOC cannot be reached, the Medical Referral Officer, or designee, shall contact the Supervisor on Duty at the Department of Public Safety and request assistance in locating the Coordinating Officer of the EOC or his representative.

The Medical Referral Officer, or designee, may exercise discretion in deciding to contact the United States Coast Guard, Navy, or Air Force located in the Territory of Guam. However, before contacting any of the U.S. Armed Forces, the Medical Referral Officer, or designee, must ensure that: i) the medical case involves an immediately life-threatening situation; and ii) that there will be no commercial flight available for transport in the time period specified by the primary care physician for medical referral. Once the Medical Referral Officer, or designee, contacts one of the divisions of the U.S. Armed Forces requesting assistance on a medical referral case, the primary care physician must be available to provide the Chief of the U.S. Armed Forces division, or other military official in charge, with the details of the medical case and the requirements for the evacuation.

The Medical Referral Officer, or designee, shall advise the Secretary of Public Health about the details of all emergency medical evacuation cases.

- 6.3. Origin For All Medical Referrals. All medical referrals to health care facilities outside the CNMI must originate from the Commonwealth Health Center. A patient already on medical referral at a referral health care facility may not be transferred to a second referral health care facility without the express authorization of the Medical Referral Committee, except in cases of emergencies.
- 6.4. <u>Denial of a Presented Referral Case</u>. If a patient's medical referral petition is denied by the Medical Referral Committee, the Medical Referral Officer shall inform the primary care physician of the Committee's decision. If the referring physician is not satisfied with the Committee's decision, he or she may submit the patient's case for reconsideration at the next Committee meeting, provided additional facts are added for discussion.

### VII. Transfers from Rota, Tinian, and the Northern Islands

7.1. <u>Medical Transfers from Rota, Tinian, and the Northern Islands</u>. All residents of Rota, Tinian, and the Northern Islands in need of medical care or follow-up medical appointments which cannot be adequately provided at the Rota Health Center, Tinian Health Center, or the Northern Islands medical

facility, respectively, shall be transferred to the Commonwealth Health Center. If the patient is in need of additional medical care which cannot be provided at the Commonwealth Health Center, the case shall be presented to the Medical Referral Committee for evaluation as set forth above in Section 6.

- 7.2. Emergency Evacuation From Rota. Notwithstanding Section 6.3 of these Rules and Regulations, and because of the Rota Health Center's proximity to the Territory of Guam, the Rota resident physician may request that emergency medical cases be evacuated directly to a Guam referral health care facility after confirming through a member of the Medical Referral Committee that the required medical services cannot be provided at the Commonwealth Health Center. Any such emergency referral directly to a Guam referral health care facility must be authorized by the Secretary of Public Health, or in his absence, by an Emergency department physician prior to the patient's transfer.
- 7.3. <u>Authority To Transfer</u>. Only a CNMI licensed physician, or in the absence of a CNMI licensed physician, another licensed medical professional authorized by the Resident Director of the health center to make medical transfer decisions, may approve the transfer of patients from the Rota Health Center, Tinian Health Center, or Northern Islands medical facility to the Commonwealth Health Center. No other individual, regardless of office or title, may authorize the transfer of a patient from Rota, Tinian, or the Northern Islands to the Commonwealth Health Center.
- 7.4 Responsibility For Payment of Medical Care. Residents of Rota, Tinian, Saipan, and the Northern Islands are equally responsible for the payment of medical bills they incur for medical services rendered to them. All medical bills incurred by residents of Rota, Tinian, and the Northern Islands while patients at the Commonwealth Health Center, that are not covered by health care financial support or a third-party payor, shall be the financial responsibility of the patients.
- 7.5. Room and Board. Patients transferred from the Rota Health Center, the Tinian Health Center, or the Northern Islands medical facility to the Commonwealth Health Center for out-patient services may be provided a room at the Rota/Tinian Guest House, depending on availability, and meal tickets

redeemable at the Commonwealth Health Center cafeteria. Meal tickets shall be issued by the Medical Referral Office.

7.6. <u>Airline Transportation and Escorts</u>. The Medical Referral Program shall be responsible for the cost of airline transportation from Rota, Tinian, or the Northern Islands to the Commonwealth Health Center for authorized transfers. The Medical Referral Program shall be responsible for the cost of a medical and/or family escort for the patient in accordance with the criteria set forth in Section 5.4 of these Rules and Regulations.

# VIII. Follow-Up Medical Appointments.

Medical referral patients are not automatically entitled to a followup medical appointment at a referral health care facility. Patient petitions for follow-up appointments shall be treated the same as initial petitions for medical referral, and shall be subject to the same standards and procedures as an initial medical referral.

## IX. Medical Referral Program Exclusions

The following charges shall be excluded from coverage under the Medical Referral Program, and shall be the financial responsibility of the patient:

- 9.1. Any charges related to medical treatment or care which could have been adequately provided at the Commonwealth Health Center.
- 9.2. Any charges for occupational diseases or injury that are covered by workmen's compensation benefits.
- 9.3. Any charges incurred at a Veteran's Administration facility except in emergency situations.
- 9.4. Any charges related to health care services provided by a government-funded public health program.
- 9.5. Any charges incurred for personal comfort items, including telephones, radios, private housing accommodations, and car rental.

- 9.6. Any charges related to nursing home-type care provided by an institution not qualified as a hospital under state law.
- 9.7. Any charges related to cosmetic surgery except as required for repair of catastrophic injury or congenital malformation.
  - 9.8. Most charges related to organ transplant surgery.
- 9.9 Any charges related to a patient obtaining a second opinion on a recommended treatment or procedure.
- 9.10 Any charges related to medical treatment rendered for investigatory or experimental purposes, or medical treatment for which there is no established benefit to the patient's health.
- 9.11. Any charges for medical care not authorized by the Medical Referral Committee, or charges for medical care provided by a facility or provider other than a recognized referral health care facility.
- 9.12. Other tertiary services that may be identified by the Medical Referral Committee as so expensive as to impact the overall financial integrity of the Medical Referral Program.
- 9.13. Any charges specifically excluded or limited by other policies of the Department of Public Health.

# X. Humanitarian and Emergency Provisions

In the event a person who would be ineligible for medical referral pursuant to Section 4.2 of these Rules and Regulations is found by his or her primary care physician to require an emergency medical referral, the Medical Referral Committee may authorize the Medical Referral Office to assist with the arrangements for medical care to be provided outside the CNMI. However, such patient shall be required to pay for any medical referral related costs incurred by the Medical Referral Program.

#### XI. Referral Fees

11.1. Payment of Medical Referral Costs. The Medical Referral Program is the payor of last resort. Prior to departing the CNMI, every patient approved for medical referral, or patient representative, shall provide the Medical Referral Office staff with proof of any and all health care financial support and/or third-party payors, such as a health insurance identification card, Medicaid identification card, or Medicare claim card, that are responsible for providing financial coverage for the costs associated with the patient's medical referral. Medical referral patients, or their representative, shall also execute a subrogation of claims form prior to their departure from the CNMI, authorizing the Medical Referral Office, through the Office of the Attorney General, to pursue any legal claims on behalf of the patient against third parties who may be liable for payment of the medical referral costs.

The Medical Referral Office shall presume that the following entities or individuals are responsible for the costs associated with the patient's medical referral:

- a. Recipients of Benefits From Medicaid, Medicare, Vocational Rehabilitation, or Other Government Assistance Programs: 100% of the program coverage for the medical, ancillary, transportation, escort, and maintenance costs incurred in connection with the patient's medical referral shall be paid by the appropriate Federal and/or CNMI government program. Any amount not covered by the government program shall be the patient's financial responsibility, except as provided in Section 11.1.f.
- b. <u>Health Care Insurance</u>: 100% of policy limit coverage for medical, ancillary, transportation, escort, and maintenance costs incurred in connection with the patient's medical referral as provided pursuant to the terms and conditions of the patient's health care insurance policy shall be paid by the insurance company (including HMO's and PPO's). If a patient's health care insurance policy does not cover air transportation costs to the referral health care facility and maintenance costs, the Medical Referral Program shall pay these costs as provided in Sections 5.3 and 5.5 of these Rules and Regulations. Except that in those cases where an insurance company prefers to make independent arrangements for its members' medical referral, the Medical

Referral Program shall only be responsible for transportation and maintenance costs up to the equivalent level of such costs for a medical referral to the State of Hawaii. Any amount not covered by the patient's health care insurance policy or this subsection shall be the patient's financial responsibility, except as provided in Section 11.1.f.

- c. <u>Nonresident Worker Health Medical Coverage</u>. 100% of the medical referral costs incurred in connection with the patient's medical referral shall be paid by the employer as provided by the Nonresident Workers Act, 3 CMC §4437(c).
- d. <u>Third Party Acts Against A Patient</u>. The Medical Referral Office, with the assistance of the medical referral patient, shall use its best efforts to collect the costs incurred in connection with the patient's medical referral from any of the following: i) any third-party found guilty of a physical crime against the patient which resulted in the patient's need for medical referral; ii) any third-party tortfeasor whose actions injured the patient and resulted in the patient's need for medical referral; or iii) such third-party's insurance company.
- e. <u>No Responsible Third-Party Payor</u>. 100% of the medical, ancillary, and escort costs incurred in connection with the patient's medical referral shall be the patient's financial responsibility, or if the patient is a minor, then the financial responsibility of a chargeable adult, except as provided in Section 11.1.f. The Medical Referral Program shall pay the air transportation costs to the referral health care facility and maintenance costs, as provided in Sections 5.3 and 5.5 of these Rules and Regulations.
- f. <u>Exceptions For Indigent Patients</u>. The Medical Referral Program shall pay the applicable percentage of the medical referral costs for which an indigent patient is personally liable whenever the patient is able to establish to the satisfaction of the Medical Referral Office staff that he or she falls within the indigency standards set forth below:
- i) The Medical Referral Program shall pay 95% of the medical and ancillary costs, and 100% of the transportation, escort, and maintenance costs associated with the medical referral for those patients whose family income from all sources falls within the following levels:

Family Size*	Maximum Annual Income <sup>1</sup>
1	\$13,365
2	\$17,880
3	\$22,395
4	\$26,910
5	\$31,425
6	\$35,940
7	\$40,455
8	\$44,970

<sup>\*</sup> For family units of more than 8 members, add \$4,515 for each additional member.

ii) The Medical Referral Program shall pay 70% of the medical and ancillary costs, and 100% of the transportation, escort, and maintenance costs associated with the medical referral for those patients whose family income from all sources falls within the following levels:

Family Size*	Maximum Annual Income <sup>2</sup>
1	\$17,820
2	\$23,840
3	\$29,860
4	\$35,880
5	\$41,900
6	\$47,920
7	\$53,940
8	\$59,960

<sup>\*</sup> For family units of more than 8 members, add \$6,020 for each additional member.

Any amount not covered by the Medical Referral Program shall be the financial responsibility of the patient.

Maximum annual income levels are based on the 1995 Consumer Price Index, and are the levels published in the Federal Register by the Secretary of the Department of Health & Human Services pursuant to the Omnibus Budget Reconciliation Act (OBRA) of 1981, §652 and §673(2), as a guideline to the Hawaii State Medicaid Agency.

<sup>2 &</sup>lt;u>Id</u>.

The patient, or patient representative, shall have the burden of providing the Medical Referral Office staff with verifiable documentation regarding the patient and the patient's family unit, (such as filed family income tax returns, wage and salary forms for employed family members, and applications for family enrollment in public assistance programs), that establish that the patient and the patient's family unit fall within the indigency levels set forth above, and that the patient is thus eligible for financial assistance through the Medical Referral Program. The Medical Referral Office staff shall include the documentation provided by the patient to establish indigency in the patient's medical referral file. The Medical Referral Office shall be prepared to demonstrate to the Secretary of Public Health, the Governor, and/or the Legislature, upon request, that the patient satisfactorily established that he or she was indigent, and required financial support to pay the medical referral costs.

- 11.2 Assignment of Rights. Every patient approved for medical referral shall assign any and all rights he or she may have to health care financial support or other third-party payments to the Medical Referral Office up to the amount of the medical referral costs, and shall use his or her best efforts to secure such financial assistance for the entire medical referral costs. If, at any time, a medical referral patient receives a direct reimbursement from an insurance company or other third-party payor for medical bills arising from an authorized medical referral, such patient shall immediately endorse such payment to the Medical Referral Office for deposit in the Medical Referral Program account.
- 11.3 <u>Utilization Review</u>. All medical bills incurred by a patient at the referral health care facility shall be subject to utilization review by the appropriate Commonwealth Health Center personnel. In those cases where a patient is referred to a referral health care facility in the State of Hawaii, it shall be the primary responsibility of the utilization review nurse employed by the Hawaii Liaison Office to review the medical treatment and care provided to the patient, and to audit the medical bills prior to their payment by the Medical Referral Office.

If, during utilization review, it is determined that: i) a patient is receiving, or has received, health care services which are unnecessary, or are unauthorized by the Medical Referral Committee; ii) the patient's stay in the hospital has been unnecessarily extended; iii) irregularities or inconsistencies exist in the patient's medical bills; or iv) there are other factors regarding patient care which may compromise the financial integrity or managed health care policy of the Medical Referral Program, such personnel or nurse performing the utilization review shall immediately notify the Medical Referral Officer in writing of the situation. The Medical Referral Officer, in conjunction with the Secretary of Public Health, shall promptly notify the referral health care facility in writing about the conclusions reached in the utilization review report regarding the specific charges for unauthorized or inappropriate services and advise the facility that the Medical Referral Program shall not be responsible for such charges.

11.4 <u>Lifetime Cap</u>. The Medical Referral Program shall pay expenses incurred for medical referral up to a lifetime limit of Fifty Thousand Dollars (\$50,000.00) per patient. Transportation costs for the referral patient and any authorized escort, maintenance expenses for patients receiving outpatient treatment, and maintenance expenses for an authorized escort shall not be included in the calculation of the patient's total lifetime limit of Fifty Thousand Dollars.

# XII. Limited Government Liability.

- 12.1. <u>Statutory Exemption</u>. As provided in 7CMC §2204(d) of the Commonwealth Code, the CNMI Government shall not be liable for any claim arising from the Medical Referral Committee's denial of, or failure to make, a medical referral to a medical facility outside the CNMI.
- 12.2. <u>Medical Referral Program Not Responsible For Unauthorized</u>
  <u>Services</u>. The Medical Referral Program shall not be responsible for the medical, ancillary, transportation, escort, or maintenance costs incurred by a patient whose off-island medical care was not authorized by the Medical Referral Committee. Similarly, the Medical Referral Program shall not be responsible for the cost of medical or health care services rendered to a patient at a health care

facility or by a health care provider not recognized by the Medical Referral Committee.

## XIII. Penalties For Violations of These Rules and Regulations

Any person found by the Department of Public Health to have violated these Rules and Regulations shall be liable for either a) a civil penalty of up to \$1,000.00; or (b) the costs incurred by the Medical Referral Program as a result of the violation, whichever is greater, and court costs and attorneys fees incurred by the CNMI government in collecting such penalty or incurred costs, for each violation of the Rules and Regulations.

## XIV. Severability

If any provision of these Rules and Regulations or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these Rules and Regulations or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

# **ATTACHMENT 1**

For purposes of these Rules and Regulations, the following health care facilities, and those health care providers and ancillary care providers associated with these facilities, shall be recognized as "referral health care facilities" for medical referral patients from the CNMI:

## Territory of Guam

Dededo Polymedic Clinic
Espaldan Clinic, Inc.
Family Medical Clinic
Good Samaritan Clinic
Guam Memorial Hospital
Guam Pacific Medical Clinic
Guam Seventh Day Adventist Clinic
Specialty Clinic
St. Anthony Clinic
The Doctor's Clinic

### State of Hawaii

Kapiolani Medical Center
Kuakini Medical Center
Queen's Medical Center
Rehabilitation Hospital
Shriner's Hospital For Crippled Children
St. Francis Medical Center
Straub Clinic and Hospital

### Republic of the Philippines

Makati Medical Center Saint Luke's Medical Center Philippine General Hospital