

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



COMMONWEALTH REGISTER

**VOLUME 43
NUMBER 10
OCTOBER 28, 2021**

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COMMONWEALTH REGISTER

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NUMBER 10
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Department of Finance

Division of Procurement and Supply

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PUBLIC NOTICE

OF EMERGENCY REGULATIONS WHICH ARE AMENDMENTS TO DEPARTMENT OF FINANCE, PROCUREMENT REGULATIONS, NMIAC TITLE 70, SUBCHAPTER 70-30.3

NOTICE OF EMERGENCY ADOPTION: The Commonwealth of the Northern Mariana Islands, Department of Finance (“DOF”), Division of Procurement Services (“the Secretary”) will adopt the attached rules and regulations on an emergency basis for the reasons stated below. (1 CMC § 9105(b)(2)).

AUTHORITY: The Secretary of Finance is responsible for procurement in the Commonwealth (1 CMC § 2553(j)) and is empowered by the Legislature to adopt rules and regulations not inconsistent with law regarding those matters within its jurisdiction (1 CMC § 2557).

An agency may adopt an emergency regulation upon fewer than 30 days’ notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days’ notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section... 1 CMC § 9104(b), (c).

THE TERMS AND SUBSTANCE: The emergency and proposed rules and regulations provide for all authorized agency personnel to make small purchases using a credit card, and specify evaluation criteria when making small purchases that require the use of quotations.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Authorize agency personnel (card holders) to use commercial credit cards to make purchases and payments for goods, services, or construction.
2. Allows for purchasing limits to card holders (\$10,000 per transaction and limit of \$25,000 of monthly transactions.
3. Provides for the selection of quotes based on either price and quality or alternative selection criteria provided in a request for quote. This subject is applicable to NMIAC §§ 70-30.3-220(a)(3) and 70-30.3-220(b)(2).

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: The Secretary has followed the procedures of 1 CMC § 9104(b) to adopt the Regulations on an emergency basis for 120 days.

REASONS FOR EMERGENCY ADOPTION: The Secretary finds that the public interest requires adoption of these regulations on an emergency basis, for the following reasons:

1. The authorized card holders shall utilize these Government Purchase Cards to comply with terms or conditions the Secretary of Finance or Director of Procurement Services may impose on card holders to minimize risk of fraud or loss.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (*see* 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district. (1 CMC § 9104(a)(1))

The Secretary shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC § 9105(b)(2)).

IMMEDIATE EFFECT: These emergency regulations will become effective immediately upon filing with the Commonwealth Register at the Office of the Attorney General and the mailing under registered cover of copies thereof to the Governor (1 CMC § 9105(b)(2)). The Secretary has found that immediate adoption is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. *Id.*

TO PROVIDE COMMENTS: Interested persons may submit written comments on the proposed regulations via the following methods:

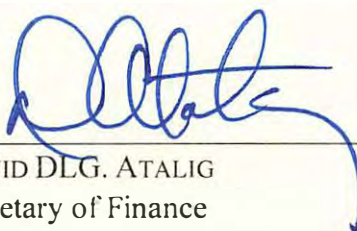
Email: david.atalig@dof.gov.mp, Subject: Procurement Regulations Comments;

USPS mail: Procurement Regulations, C/O David Atalig, Secretary of Finance, PO Box 5234 CHRB, Saipan MP 96950.

Hand Delivery: Procurement Regulations, C/O David Atalig, Secretary of Finance, Building 1302 Ascencion Drive, Capitol Hill, Saipan.

Comments are due within 30 days from the date of this publication notice. Please submit your data, views, or arguments within the specified time (1 CMC §9104(a)(2)).

Submitted by:


DAVID DLG. ATALIG
Secretary of Finance

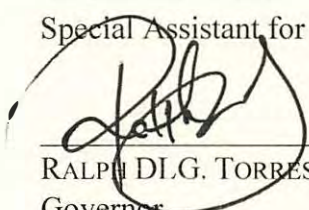
10/1/21
Date

Received by:


MATILDE ROSARIO
Special Assistant for Administration

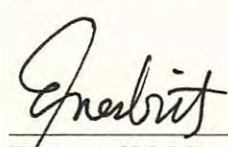
10/04/21
Date

Concurred by:


RALPH DLG. TORRES
Governor

05 OCT 2021
Date

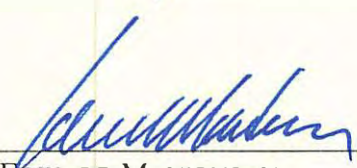
Filed and
Recorded by:


ESTHER SN. NESBITT
Commonwealth Registrar

10.06.21
Date

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

Dated the 5th day of October, 2021.


EDWARD MANIBUSAN
Attorney General

§ 70-30.3-220 Small Purchases; Government Purchase Card

(a) Purchases that use Government-sourced funds (local funds), or any combination of both local and federal funds, may be made according to the small purchase procedures of this subsection:

(1) For purchases that do not exceed \$10,000, at least one price quote shall be obtained. However, the Director may require the expenditure authority to obtain more than one price quote.

(2) A blanket purchase order may be used to make purchases without securing a price quote when the purchases do not exceed \$5000. The goods or services that may be purchased under a blanket purchase order must be defined (i.e. office supplies) and shall not be used for equipment. The expenditure authority shall promptly submit to the Director copies of receipts for all purchases made under a blanket-purchase order. The Director may instruct the expenditure authority to explain the need for the goods or services and how the prices paid were reasonable.

(3) For purchases that exceed \$10,000, but which are less than or equal to \$50,000, at least three vendors shall be solicited by the expenditure authority to submit written or electronic quotations. Selection shall be based on price and quality, unless alternative criteria were provided in the request for quote; in which case, such criteria shall be used as a basis for selection. If less than three quotes are obtained, the expenditure authority shall certify, in writing, to the Director that quotes were solicited from at least three vendors and shall attach documentation of the solicitation. The Director may approve the selected quote or instruct the expenditure authority to obtain at least three quotes before selection.

(b) Purchases that use only federal funds may be made according to the small purchase procedures of this subsection:

(1) For purchases that do not exceed \$10,000, at least one price quote shall be obtained. However, the Director may require the expenditure authority to obtain more than one price quote.

(2) For purchases that exceed \$10,000, but which are less than or equal to \$250,000, at least three vendors shall be solicited by the expenditure authority to submit written or electronic quotations. Selection shall be based on price and quality, unless alternative criteria are provided in the request for quote; in which case, such criteria shall be used as a basis for selection. If less than three quotes are obtained, the expenditure authority shall certify, in writing, to the Director that quotes were solicited from at least three vendors and shall attach documentation of the solicitation. The Director may approve the selected quote or instruct the expenditure authority to obtain at least three quotes before selection.

(c) Purchases from the United States General Services Administration (GSA) may be made according to the small purchase procedures of this subsection:

(1) At least one quote shall be obtained when making purchases, including purchases that exceed \$250,000.

(d) A purchase order shall be used as authorization to make any of the above small purchases (§§ 70-30.3-220(a)-(c)).

(e) Government Purchase Card. The Secretary of Finance may issue Government charge cards to authorized agency personnel (card holders). The charge cards may be similar to

commercial credit cards and may be used for the purchase and payment of goods, services, or construction.

(1) Purchase Limit. Card holders shall limit each transaction to \$10,000 and shall limit monthly transactions to \$25,000.

(2) Quotations. Purchases and payments may be made without a quotation if the card holder considers the price to be reasonable based on past purchases made by the agency, personal knowledge of the items purchased, or any other reasonable basis.

(3) Responsibilities. Card holders shall:

(i) Safeguard the charge card and account number to prevent theft or unauthorized use;

(ii) Provide documentation of purchases (i.e. invoices or receipts) when requested by the Department of Finance, Division of Procurement Services, Agency Head, or Public Auditor;

(iii) Initiate action to obtain credit for any disputed item (i.e. duplicate, erroneous or over charges);

(iv) Promptly report a lost or stolen charge card; and

(v.) Comply with terms or conditions the Secretary of Finance or Director of Procurement Services may impose on card holders to minimize the risk of fraud or loss (i.e. transaction review and certification procedures, manual or electronic reconciliation procedures, inventory receipt and control, etc...).

(f) Procurement requirements shall not be artificially divided so as to constitute a small purchase.



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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PUBLIC NOTICE OF EMERGENCY AMENDED PROCUREMENT REGULATIONS FOR THE OFFICE OF THE PUBLIC AUDITOR

EMERGENCY ADOPTION AND IMMEDIATE EFFECT: The Commonwealth of the Northern Mariana Islands, Office of the Public Auditor (OPA) finds that:

- (1) the amended Procurement Regulations shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below. 1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)); and
- (2) the same proposed amended Procurement Regulations shall be adopted, after a proper notice and comment period, as permanent regulations pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a).

AUTHORITY: The amended Procurement Regulations are promulgated under the authority of 1 CMC § 2303(d) which provides the Public Auditor authority to promulgate procurement regulations and administer the procurement function of OPA.

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(b) If an agency find that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of no longer than 120 days, but the adoption of an identical regulation under subsection (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section.... 1 CMC § 9104(b), (c).

TERMS AND SUBSTANCE: The amended Procurement Regulations set forth an amended "Small Purchases" section substantially similar to the Department of Finance's Procurement Regulations as required by 1 CMC § 2303(d).

THE SUBJECTS AND ISSUES INVOLVED: The amended Procurement Regulations set forth the procedural guidelines for "Small Purchases" of goods and services.

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: OPA has followed the procedures of 1 CMC § 9104(b) to adopt these amended Procurement Regulations on an emergency basis for 120 days.

REASON FOR EMERGENCY ADOPTION: OPA finds that the public interest requires adoption of these amended regulations on an emergency basis, for the following reasons:

1. OPA needs to be able to utilize an amended small purchases section so it may expend grant funds in a more efficient manner due to the time restraints of American Rescue Plan Act of 2021 (ARPA).

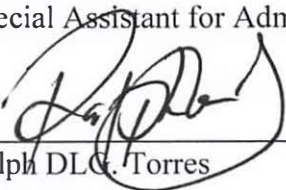
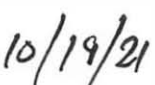
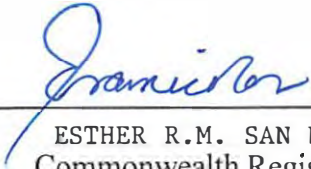
DIRECTIONS FOR FILING AND PUBLICATION: These amended Procurement Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (1 CMC § 9102(a)(1)). OPA shall take appropriate measures to make these amended Regulations known to the person who may be affected by them (1 CMC § 9105(b)(2)).

IMMEDIATE EFFECT: These emergency amended Procurement Regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)). This is because OPA has found that this effective date is required by the public interest. (*Id.*)

COMMENTS: No comments are required for emergency regulations.

However, the related Notice of Proposed Regulations will specify comment procedures. Please see the notice regarding these identical emergency regulations in the same Commonwealth Register under the Proposed Regulations section.

These attached amended emergency regulations were approved by the Public Auditor on October 8, 2021.

Submitted by:	 _____ Kina Peter, CPA Public Auditor	 _____ Date
Received by:	 _____ Mathilda A. Rosario Special Assistant for Administration	 _____ Date
Concurred by:	 _____ Ralph DLG. Torres Governor	 _____ Date
Filed and Recorded by:	 _____ ESTHER R.M. SAN NICOLAS Commonwealth Registrar	 _____ Date

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

Dated the 12th day of October 2021.



Edward Manibusan
Attorney General

§ 130-30-220 Small Purchases

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures established in this section. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) ~~Bidding is not required for procurement under \$2,500.~~ Purchases that use Government-sourced funds (local funds) or any combination of both local and federal funds may be made according to the small purchase procedures of this subsection:

(1) For purchases that do not exceed \$ 10,000.00 at least one price quote shall be obtained. However, where practicable, the Procurement Officer shall seek to obtain more than one price quote.

(2) A blanket purchase order may be used to make purchases without securing a price quote when the purchases do not exceed \$1,000.00. The goods or services that may be purchased under a blanket purchase order must be defined (i.e. office supplies) and shall not be used for equipment. The Procurement Officer shall promptly submit to the Public Auditor copies of receipts for all purchases made under a blanket-purchase order. The Public Auditor may instruct the Procurement Officer to explain the need for the goods or services and how the prices paid were reasonable.

(3) For purchases that exceed \$10,000.00, but which are less than or equal to \$50,000.00, a minimum of three vendors shall be solicited to submit written or electronic quotations. The quotations shall be recorded and placed in the procurement file. If fewer than three vendors submit quotations, the Procurement Officer shall certify, in writing, to the Public Auditor that fewer than three vendors responded and shall provide written proof of the request. If fewer than three of the solicited vendors submit quotes, the Public Auditor may either approve the request or direct the Procurement Officer to solicit additional quotes.

(4) The Procurement Officer shall limit to \$50,000.00 per fiscal year the total amount of purchase orders made in accordance with the small purchase procedures of this subsection (a) that the Procurement Officer issues to any single non-governmental vendor, unless the Public Auditor approves, in writing, of the proposed expenditures that would exceed the limit.

(c) ~~Bidding is not required but is encouraged for procurement valued at \$2,500 and under \$10,000. The Public Auditor will obtain price quotations from at least three vendors and base the selection on competitive price and quality for procurement valued at \$2,500 and under \$10,000. Any price quotations obtained must be written, documented, and submitted to~~

~~the Procurement Officer for approval.~~ Purchases that use only federal funds may be made according to the small purchase procedures of this subsection:

(1) For purchases that do not exceed \$10,000.00, at least one price quote shall be obtained. However, the Public Auditor may require the Procurement Officer to obtain more than one price quote.

(2) For purchases that exceed \$10,000.00, but which are less than or equal to \$250,000.00, a minimum of three vendors shall be solicited to submit written or electronic quotations. The quotations shall be recorded and placed in the procurement file. If fewer than three vendors submit quotations the Procurement Officer shall certify, in writing, to the Public Auditor that fewer than three vendors responded and shall provide written proof of the request. If fewer than three of the solicited vendors submit quotes, the Public Auditor may either approve the quote, instruct the Procurement Officer to solicit additional quotes, or require that the purchase be procured pursuant to § 130-30-205 or other applicable provisions of the regulations in Chapter 130-30.

~~(d) ——— Purchase orders may be utilized for small purchases subsections (b) and (c).*~~

~~(e)~~(d) Any lease or purchase of vehicles shall be procured pursuant to § 130-30-315. Any lease or purchase of machinery and equipment in excess of the amounts allowed in this section shall be procured pursuant to § 130-30-205 or other applicable provisions of the regulations in Chapter 130-30.



Commonwealth of the Northern Mariana Islands

OFFICE OF THE GOVERNOR

Bureau of Environmental and Coastal Quality

DEQ: P.O. Box 501304, DCRM: P.O. Box 10007, Saipan, MP 96950-1304

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Ralph DLG. Torres
Governor

Arnold I. Palacios
I.t. Governor

Eli D. Cabrera
Administrator

Zabrina C. Shai
Acting Director, DEQ

Richard V. Salas
Acting Director, DCRM

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF
BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF ENVIRONMENTAL QUALITY**

**AMENDMENTS TO SOLID WASTE MANAGEMENT REGULATIONS
RECYCLING, COMPOSTING, SALVAGE, AND C&D WASTE**

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) HEREBY ADOPTS AS PERMANENT amendments to revise the Division of Environmental Quality (DEQ) Solid Waste Management Regulations at NMIAC Chapter 65-80 pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9101 *et seq.*, and the Environmental Protection Act, 2 CMC §§ 3101 *et seq.*

I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification.

PRIOR PUBLICATION: These regulations were published as Proposed Regulations in Volume 43, Number 08, pp 47500-47518 of the Commonwealth Register on August 28, 2021.

ATTORNEY GENERAL APPROVAL: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register pursuant to 1 CMC § 2153(e).

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: These amendments are promulgated under the authority of BECQ pursuant to 2 CMC § 3121 to issue regulations to carry out its policies and purposes, including to develop and administer programs to prevent or regulate activities as necessary to protect the public health or welfare from any significant adverse effect of the transportation, storage, use, and disposal of solid wastes. 2 CMC § 3122.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted amendments are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which in this instance is 10 days after publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: During the 30-day comment period, BECQ received no comments regarding the Proposed Regulations. Upon this adoption of the amendments, BECQ will, if requested to do so by any interested person within 30 days of adoption, issue a concise statement of the principal reasons for and against its adoption.

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

Submitted by:



Eli Cabrera
Administrator, BECQ

Date

10/18/2021

Filed and Recorded by:



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

Date

10.20.21



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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PUBLIC NOTICE OF PROPOSED ADOPTION OF PROCUREMENT REGULATIONS FOR THE OFFICE OF THE PUBLIC AUDITOR

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Office of the Public Auditor (OPA) intends to adopt as permanent regulations the attached amended Procurement Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC §9104(a). The regulations will become effective ten (10) days after adoption and publication in the Commonwealth Register. (1 CMC §9105(b)).

AUTHORITY: The proposed Procurement Regulations are promulgated under the authority of 1 CMC § 2303(d) which provides the Public Auditor authority to promulgate procurement regulations and administer the procurement function of OPA.

TERMS AND SUBSTANCE: The proposed Procurement Regulations are set forth to provide the regulations and procurement of goods and services by OPA.

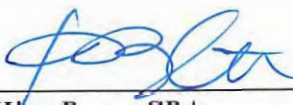
THE SUBJECTS AND ISSUES INVOLVED: The proposed Procurement Regulations set forth the procedural guidelines for OPA procurement of goods and services.

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

COMMENTS: Interested parties may submit written comments on the proposed adoption of the OPA Procurement Regulations to Kina Peter, Public Auditor, Office the Public Auditor, at P.O. Box 501399 CK. Saipan, MP 96950, or by facsimile to (670)322-7812, or to email address, mail@opacnmi.com. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice (1 CMC § 9104(a)(2)).

These proposed regulations were approved by the Public Auditor on October 8, 2021.

Submitted by: _____


Kina Peter, CPA
Public Auditor


Date

Received by: _____

Mathilda A. Rosario
Special Assistant for Administration

10/08/21

Date

Filed and
Recorded by: _____

ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

10.22.2021

Date

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

Dated the 12th day of October 2021.



Edward Manibusan
Attorney General



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

Website: <http://opacnmi.com>

1236 Yap Drive, Capitol Hill, Saipan, MP 96950

Mailing Address:

P.O. Box 501399

Saipan, MP 96950

E-mail Address:

mail@opacnmi.com

Phone: (670) 322-6481

Fax: (670) 322-7812

NUTISIAN PUPBLIKU NI MAN MAPROPONI PARA U MA ADAPTA I REGULASION PROCUREMENT SIHA PARA I UFISINAN I PUBLIC AUDITOR

MA INTENSIONA NA AKSION PARA U MA ADAPTA ESTE I MAN MAPROPONI NA REGULASION SIHA: I Commonwealth gi Sangkattan na Islas Marianas, Ofisinan i Public Auditor OPA, ma intensiona para ma adapta komu petmaniente i regulasion siha ni mañechetton i man maproponi na Regulasion Procurement siha, sigun gi Akton Administrative Procedure I CMC § 9104(a). I Regulasion siha para u ifektibu dies (10) dihas despues i adaptasion yan publikasion gi halom i Rehistran Commonwealth.

ATURIDAT: I man maproponi na Regulasion Procurement ma diklara gue papa' i aturidat i I CMC §2303 (d) ni mapribeniyi aturidat i Public Auditor para u ma diklara regulasion procurement siha yan ma dirihi i fonksion procurement i OPA.

I TEMA YAN SUSTANSIAN I PALABRA SIHA: I man maproponi na Regulasion i Procurement ma pega mo'na para u mapribeniyi fuetsao na regulasion yan procedures gi kosas yan setbisio i procurement siha guinen OPA.

SUHETU NI MASUMARIA YAN ASUNTU NI TINEKKA: I man maproponi na Regulasion Procurement siha ma pega mo'na i procedural guidelines para i procurement OPA gi kosas yan setbisio siha.

DIREKSION PARA U MA PO'LU YAN PARA PUBLIKASION: Esti i man maproponi na Regulasion siha debi na u mapublikas gi halom i Rehistran Commonwealth gi seksiona ni man maproponi yan ñuebu na ma adapta na regulasion siha, I CMC § 9102(a)(1), yan u ma pega gi kumbinienti na lugat siha gi halom i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Englis yan prinsipat na lingguahin natibu. (I CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: I man intirisao na petsona siha siña manahalom upiñon siha ni man maproponi na adaptasion i Regulasion Procurement OPA guatu gi as Kina Peter, Public Auditor, gi P.O. Box 501 399 CK. Saipan, MP 96950, pat hãgan telefon (670)322-7812, pat email address mail@opacnmi.com. Upiñon, data, views, pat agumentu siha debi di u manahalom trenta (30) dihas guinen i fetcha ni mapublikas i nutisia (I CMC §9104 (a)(2)).

Esti i man maproponi na regulasion siha man ma aprueba guinen i Public Auditor gi Octubre 8, 2021.

Nina'hãlom as:


Kina B. Peter, CPA
Public Auditor


Fetcha

Rinsibi as:


Mathilda A. Rosario
Special Assistant for Administration

Fetcha

Pine`lu yan
Ninota as:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

10.22.2021

Fetcha

Sigun i l CMC § 2153(e) (l Abugâdu Hinerâl ma aprueba i regulasion siha na para u macho'gui kumu fotma) yan i l CMC § 9104(a)(3) (hentan inaprueban Abugâdu Hinerât) i man maproponi na regulasion siha ni mañechettun guini ni man ma ribisa yan man ma aprueba kumu fotma yan sufisienti ligât guinen i CNMI Abugâdu Hinerât yan debi na u mapupblika, l CMC § 2153(f) (pupplikasion areklamenlu yan regulasion siha).

Mafetcha guini gi diha 12th gi Octobre 2021



Edward Manibusan
Abugâdu Hinerâl



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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NOTISIAL ARAMAS TOW LAP REEL RE BWE ADÓPTÁLI REGULATIONUL PROCUREMENT BWE OFFICE OF THE PUBLIC AUDITOR EBWE FÉRI ME ATTABWEY

MILLE EBWE FÉRI REEL ADÓPTÁL REGULATION: Llól Commonwealth of the Northern Mariana Islands, Office of the Public Auditor (OPA) e aisiisitiw mille esemmwel ebwe liiwel llól permanent regulations e appasch llól Procurement Regulations, sáangi awewe me reel Administrative Procedure Act, 1 CMC §9104(a). Regulations nge ebwe bweletá llól seigh (10) ráál mwuril yaar adóptáli me atolongol llól Commonwealth Register (1 CMC §91 05(b)).

ATORIDÓD: Mille Procurement Regulations ebwe féeri atoridód sáangi 1 CMC § 2303(d) ngáli Public Auditor yaal atoridód ebwe attabweey Procurement Regulations me ebwe féeri yaal tarabwaagho bwulasiyol OPA ebwe attabwey ebwe mwóghut.

IYA TOOL ME MEETA ÓWTOL: Fféiril llól Procurement Regulations yeel nge ebwe isiis aweewe me ebwe féeri regulations kka eghatch OPA ebwe attabwey reel procurement.

ÓWTOL ME FFÉR KKA EBWE ATTABWEEY: Fféiril llól Procurement Regulation aa mwóletiw mille OPA ebwe attabwey bwe eghatch me ebwe féiril.

MILLE EBWE ATTABWEEY REEL FILING ME PUBLICATION: Proposed Regulations kkaal nge rebwe atolongol ebwe lo llól Commonwealth Register llól sóbwol milla e fféetá yáar adóptáli regulations (1 CMC § 9102(a)(1)) rebwe appaschátá Proposed Regulations kkal llól bwuléúw iye ararnasal falúw me llól civic center igha bwulasiyol gobietno me senatorial district, rebwe arághi me reepiya, e weewe schagh reel English me mwaleyal falúw (1 CMC § 9104(a)(1)).

YÓÓMW AIYEGH ME MÁNGÁMÁNG: Schóó kka re intersów rebwe iischilong meeta yáar mángámáng reel adóptál fféer kka OPA Procurement Regulations sáangi Kina Peter, Public Auditor, Office of the Public Auditor llól P.O. Box 501399 CK. Saipan MP 96950, me emmwel fax ngáli (670)322-7812, me ngare email address reel mail@opacnmi.com. Alongal aweewe kkal nge eyoor 30 ráál rebwe atootolong sáangi igha re atowowul notisia yeel ngaliir aramas towlap (1 CMC § 9104(a)(2)).

Proposed regulations kkal nge aa aprebáli sáangi Public Auditor wóol October 8, 2021.

Atolongoyal:


Kina Peter, CPA
Public Auditor


Ráál

Resibiiy sáangi:


Mathilda A. Rosario
Special Assistant for Administration

Ráál

Filed me

Recorded sáangi:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

10.22.2021

Ráál

Sáangi ówtol 1 CMC § 2153(e) (AG e aprebáli regulations ebwe fééri) me 1 CMC § 9104(a)(3) (AG e amweschúl appreba kkaal) reel proposed regulations kka e appasch bwe ra árághil me aweewel me apprebáli e legal me allégh sáangi CNMI Attorney General bwe ebwe atowowul bwe aramas towap rebwe repiyálil (1 CMC § 2153(f)(publication of rules and regulations).

Ráálil 12th 11ól Octobre 2021.


Edward Manibusan
Attorney General



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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PUBLIC NOTICE OF EMERGENCY AMENDED PROCUREMENT REGULATIONS FOR THE OFFICE OF THE PUBLIC AUDITOR

EMERGENCY ADOPTION AND IMMEDIATE EFFECT: The Commonwealth of the Northern Mariana Islands, Office of the Public Auditor (OPA) finds that:

- (1) the amended Procurement Regulations shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below. 1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)); and
- (2) the same proposed amended Procurement Regulations shall be adopted, after a proper notice and comment period, as permanent regulations pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a).

AUTHORITY: The amended Procurement Regulations are promulgated under the authority of 1 CMC § 2303(d) which provides the Public Auditor authority to promulgate procurement regulations and administer the procurement function of OPA.

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(b) If an agency find that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of no longer than 120 days, but the adoption of an identical regulation under subsection (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section.... 1 CMC § 9104(b), (c).

TERMS AND SUBSTANCE: The amended Procurement Regulations set forth an amended "Small Purchases" section substantially similar to the Department of Finance's Procurement Regulations as required by 1 CMC § 2303(d).

THE SUBJECTS AND ISSUES INVOLVED: The amended Procurement Regulations set forth the procedural guidelines for "Small Purchases" of goods and services.

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: OPA has followed the procedures of 1 CMC § 9104(b) to adopt these amended Procurement Regulations on an emergency basis for 120 days.

REASON FOR EMERGENCY ADOPTION: OPA finds that the public interest requires adoption of these amended regulations on an emergency basis, for the following reasons:

1. OPA needs to be able to utilize an amended small purchases section so it may expend grant funds in a more efficient manner due to the time restraints of American Rescue Plan Act of 2021 (ARPA).

DIRECTIONS FOR FILING AND PUBLICATION: These amended Procurement Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (1 CMC § 9102(a)(1)). OPA shall take appropriate measures to make these amended Regulations known to the person who may be affected by them (1 CMC § 9105(b)(2)).

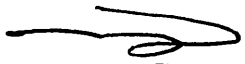
IMMEDIATE EFFECT: These emergency amended Procurement Regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)). This is because OPA has found that this effective date is required by the public interest. (*Id.*)

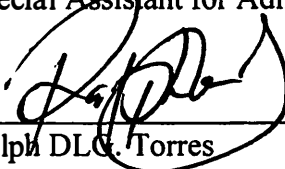
COMMENTS: No comments are required for emergency regulations.

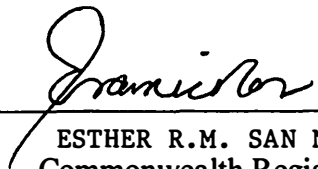
However, the related Notice of Proposed Regulations will specify comment procedures. Please see the notice regarding these identical emergency regulations in the same Commonwealth Register under the Proposed Regulations section.

These attached amended emergency regulations were approved by the Public Auditor on October 8, 2021.

Submitted by:  10/8/21
Kina Peter, CPA
Public Auditor Date

Received by:  10/08/21
Mathilda A. Rosario
Special Assistant for Administration Date

Concurred by:  10/19/21
Ralph DLG. Torres
Governor Date

Filed and
Recorded by:  10.22.2021
ESTHER R.M. SAN NICOLAS
Commonwealth Registrar Date

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

Dated the 12th day of October 2021.



Edward Manibusan
Attorney General

§ 130-30-220 Small Purchases

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures established in this section. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) ~~Bidding is not required for procurement under \$2,500.~~ Purchases that use Government-sourced funds (local funds) or any combination of both local and federal funds may be made according to the small purchase procedures of this subsection:

(1) For purchases that do not exceed \$ 10,000.00 at least one price quote shall be obtained. However, where practicable, the Procurement Officer shall seek to obtain more than one price quote.

(2) A blanket purchase order may be used to make purchases without securing a price quote when the purchases do not exceed \$1,000.00. The goods or services that may be purchased under a blanket purchase order must be defined (i.e. office supplies) and shall not be used for equipment. The Procurement Officer shall promptly submit to the Public Auditor copies of receipts for all purchases made under a blanket-purchase order. The Public Auditor may instruct the Procurement Officer to explain the need for the goods or services and how the prices paid were reasonable.

(3) For purchases that exceed \$10,000.00, but which are less than or equal to \$50,000.00, a minimum of three vendors shall be solicited to submit written or electronic quotations. The quotations shall be recorded and placed in the procurement file. If fewer than three vendors submit quotations, the Procurement Officer shall certify, in writing, to the Public Auditor that fewer than three vendors responded and shall provide written proof of the request. If fewer than three of the solicited vendors submit quotes, the Public Auditor may either approve the request or direct the Procurement Officer to solicit additional quotes.

(4) The Procurement Officer shall limit to \$50,000.00 per fiscal year the total amount of purchase orders made in accordance with the small purchase procedures of this subsection (a) that the Procurement Officer issues to any single non-governmental vendor, unless the Public Auditor approves, in writing, of the proposed expenditures that would exceed the limit.

(c) ~~Bidding is not required but is encouraged for procurement valued at \$2,500 and under \$10,000. The Public Auditor will obtain price quotations from at least three vendors and base the selection on competitive price and quality for procurement valued at \$2,500 and under \$10,000. Any price quotations obtained must be written, documented, and submitted to~~

~~the Procurement Officer for approval.~~ Purchases that use only federal funds may be made according to the small purchase procedures of this subsection:

(1) For purchases that do not exceed \$10,000.00, at least one price quote shall be obtained. However, the Public Auditor may require the Procurement Officer to obtain more than one price quote.

(2) For purchases that exceed \$10,000.00, but which are less than or equal to \$250,000.00, a minimum of three vendors shall be solicited to submit written or electronic quotations. The quotations shall be recorded and placed in the procurement file. If fewer than three vendors submit quotations the Procurement Officer shall certify, in writing, to the Public Auditor that fewer than three vendors responded and shall provide written proof of the request. If fewer than three of the solicited vendors submit quotes, the Public Auditor may either approve the quote, instruct the Procurement Officer to solicit additional quotes, or require that the purchase be procured pursuant to § 130-30-205 or other applicable provisions of the regulations in Chapter 130-30.

~~(d) ——— Purchase orders may be utilized for small purchases subsections (b) and (c).*~~

~~(e)~~(d) Any lease or purchase of vehicles shall be procured pursuant to § 130-30-315. Any lease or purchase of machinery and equipment in excess of the amounts allowed in this section shall be procured pursuant to § 130-30-205 or other applicable provisions of the regulations in Chapter 130-30.



Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD

P.O. Box 502078, Bldg., 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4809 Fax: (670) 664-4814
Email: cnmi@cnmibpl-hcplb.net
Website: cnmibpl-hcplb.net



**NOTICE OF PROPOSED AMENDMENTS TO THE
HEALTH CARE PROFESSIONS LICENSING BOARD FOR
LICENSED MARRIAGE AND FAMILY THERAPIST**

INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION: The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Amendment, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

AUTHORITY: The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to 3 CMC § 2206(b), as amended.

THE TERMS AND SUBSTANCE: Regulation History: Public Law No. 15-105 was signed into law by Governor Benigno R. Fitial and became effective on November 7, 2007, and became the "Health Care Professions Act of 2007," 3 CMC §§2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the Act. Public Law No. 15-105 3 CMC § 2206(b), empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions, including define and describe the regulated professions and their practice. Licensed Marriage and Family Therapist is to be included in the health care professions, under the power, jurisdiction and authority of the HCPLB. §2212 of Public Law No. 15-105. (This is a new regulation and is not included in §2212)

THE SUBJECTS AND ISSUES INVOLVED: These are proposed amendments for the rules and regulations under § 185-10-4710 **Exemptions from License Requirements** for the practice of Licensed Marriage and Family Therapist.

DIRECTIONS FOR FILING AND PUBLICATION: The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4809 or by email at cnmi@cnmibpl-hcplb.net or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.

Submitted By: _____

Esther S. Fleming
Executive Director

10/14/21
Date

Received By:


Matilda A. Rosario
Special Assistant for Administration

10/14/21

Date

Filed and Recorded By:


Esther San Nicolas
Commonwealth Registrar

10.14.2021

Date

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


EDWARD MANIBUSAN
Attorney General

10/14/2021

Date



Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD
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Website: cnmibpl-hcplb.net



NUTISIA PUT I MANMAPROPONI NA AMENDA SIHA PARA I MANMA'ATURISA CHO'CHU INADAHIN HINEMLU KUMITE'HI PARA I MANEKSPIRIÂNSIA MA'MAÑAGUE- MA ATURISA AYUDÂNTIN KASAMIENTU YAN FAMILIA

MA INTENSIONA NA AKSION PARA U'MA ADÂPTA ESTI I MANMAPROPONI NA REGULASION SIHA: I kumite'hin manma'aturisa cho'chu inadahn hinemlu (HCPLB) ma intensiona para u'ma adâpta petmanienti i regulasion ni man dadania na Amendasion ayu i maproponi, sigun nu i plânu siha nu i Âktun Administrative Procedure, I CMC §9104(a). I regulasion siempre mu'ifektibu dies dihas(10) dispues di mankonfotmi yan i I CMC §§9102 yan 9104(a) pat (b) (I CMC § 9105(b)).

ATURIDÂT: I kumitehin manma'aturisa cho'chu inadahn hinemlu guaha ligât na atturidât ni para u'ma anunsio yan ifektibu na regulasion siha sigun para i 3 CMC § 2206(b) ayu i ma amenda.

I TEMA YAN SUHETU SIHA: Regulasion ântis: Lai Publiku numiru. 15-105 mafitma hâlum i lai ginen as Gubietno Benigno R. Fitial yan uifektibu gi Nubembri 7, 2007 yan humuyung i Âktun cho'chu inadahn hinemlu' gi 2007," 3 CMC §§ 2201-36. I Âktu fumatinas i kumitehi manma'aturisa cho'chu inadahn hinemlu', ayu kumu libitât na ahensia areklamentu, ya ti prisisu na u mapo'lu gi halum Dipâtamentu. I kumitehi ma'atturisa para u fan lisensia ekspirensia pruteksion hinemlu' giya i Commonwealth, establisa kuâlidât na prugrâman edukasion siha, ma'aplika praktikât siha, yan para u madisiplina ayu i manmalisensia siha ayu i kumontra i Âktu publiku lai numiru 15-105 3 CMC § 2206(b), ma atturisa i kumitehi ni para u'ma adâpta i areklamentu yan regulasion siha ayu i ma'anigoku yan i Âktu yan nisisidât para ma kâtga huyong i probision Âktu siha, dumadaniña i disision yan u'masângan i arunsia i che'chu ni maregulât yan i prinaktika. I Malisensia na Therapist Kasamientu yan Familia. ni para humâlum gi che'chu inadahn hinemlu siha, gi papa i kapasidât, aturidât yan atministrasion nu i HCPLB § nu i lai pupbliku numiru. 15-105 (Nuebu esti na regulasion ni ti ingklusu gi halum § 2212).

I SUHETU YAN MANERA SIHA NI MANSASAONAO: I manmaproponi esti siha na regulasion para i areklamentu yan regulasion gi papa' § 185-10-4710 Manmakuenta ginen i Dinamândan Lisensia para prinaktikan nu i Malisensia na Therapist Kasamientu yan Familia.

DIREKSION PARA MUNA'HALUM YAN PUBLIKASION: I kumitehi manmangagaogao upiion pot esti i manmaproponi na amendasion ayu i debi na u'ma risibi nu i kumitehi gi hâalum trenta dihas (30) ni i primet publikasion nu esti na nutisia giya I Rehistran Commonwealth. I man intitirsao siha, siña manmangagao kopia nu esti i maproponi na amendasion yangin un âgan ham gi 664-4809 pat email guatu gi cnmi@cnmibpl-hcplb.net pat sinoa fâttu guatu gi ufisinan mami giya i Bldg. 1242, Pohnpei Ct, Capitol Hill, Saipan. Tinigi na upiion nu esti na amendasion debi u'ma chu'li guatu gi ufisina pat na hânao para BPL, P.O. Box 5020708, Saipan MP 969

Nina hâlum as:


Esther S. Fleming
Eksakatibun Direktot


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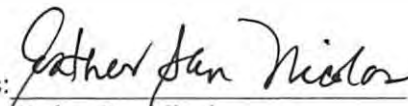
Rinisibi as:


Matilda A. Rosario
Espisiat na Ayudantin Administrasion

10/14/21

Fetcha

Pinelo yan Ninota as:


Esther San Nicolas
Rehistran i Commonwealth

10.14.2021

Fetcha

Sigun i 1 CMC § 2153(e) (1 Abugâdu Hinerât ma'apueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inapruuban Abugâdu Hinerât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'apueba kumu fotma yan sufisienti ligât ginin i CNMI Abugâdu Hinerât yan debi na u mapupblika, 2 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).



EDWARD MANIBUSAN
Abugâdu Hinerât

10/14/2021

Fetcha



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**ARONGORONGOL POMMWOL LIIWEL REEL
HEALTH CARE PROFESSIONS LICENSING BOARD NGÁLI
LICENSED MARRIAGE AND FAMILY THERAPY**

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUTUGHUT: Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptááli bwe ebwe lléghló mwóghutughut iye e appasch bwe Pommwol Liiwel, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 1 CMC 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh (10) ráál mwiril aal angúungú fengál me 1 CMC §§ 9102(a) me 9104(a) ngáre (b) (1 CMC § 9105(b)).

BWÁNGIL: Eyoor bwángil Health Care Professions Licensing Board rebwe aronga me ayoorai mwóghutughut sáangi 3 CMC § 2206(b), igha re liiweli.

KKAPASAL ME WEEWEL: Uruwowul Mwóghutughut: Alléghúl Toulap No. 15-105 e ghikkil long llól allégh sáangi Samwool Benigno R. Fitial me e bwunguló wóol Arenwoy 7, 2007 e toowow bwe “Health Care Profession Act of 2007”, 3 CMC §§2201-36. Act yeel e ayoora eew Health Care Professions Licensing Board, iye e lo bwe “independent regulatory agency”, nge rese isáli llól eew Bwulasiyo. Eyoor bwángil Board reel rebwe “license health care professionals” llól Commonwealth, itittiw “standards” ngáli “educational programs”, “administer exams”, me “discipline licensees for violation of the Act”. Alléghúl Toulap No. 15-105 3 CMC § 2206(b), e ayoorai bwángil Board reel rebwe adóptááli allégh me mwóghutughut iye e weewe fengál me Act me e ffil ebwe isiisiwow “Act provisions”, e schuulong faal me weewel “regulated professions and their practice”. “The Professional Counselor – Licensed Marriage and Family Therapist” ebwe bwal schuulong llól health care professions, faal bwángil, bwángil lemelemil HCPLB. § reel Alléghúl Toulap No. 15-105. (E ffé mwóghutughut yeel me ese schuu llól §2212).

KKAPASAL ME ÓUTOL: E lo pommwol liiwel kkal ngáli allégh me mwóghutughut faal §185-10-4710 “Exemptions” sáangi “License Requirements” ngáli mwóghutughutúl “Licensed Marriage” me “Family Therapist”.

AFAL REEL AMMWELIL ME AKKAÉÉWOWUL: Board re tingór kkapas iye e ssúl ngáli pommwol liiwel iye rebwe bwughi sáangi Board llól eliigh (30) ráál mwiril aal ghommwal akkatééwowul arongorong yeel me llól Commonwealth Register. Schóo kka re mwuschel pappidil pommwol liiwel faingiló 664-4809 ngáre email-li cnmi@cnmibpl-hcplb.net ngáre mweteti bwulasiyo me Bldg. 1242, Pohnpei Ct., Capitol Hill, Seipél. Ischil kkapas wóol liiwel kkal ebwe bweibwoghlo bwulasiyo ngáre afangaló BPL, P.O. Box 502078, Saipan, MP, 96950.

Isáliyalong:


Esther S. Fleming
Executive Director

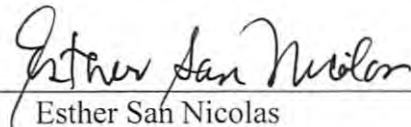
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Ráál

Bwughiyal:


Matilda A. Rosario
Special Assistant ngáli Administration

10/14/21
Ráál

Ammwelil:


Esther San Nicolas
Commonwealth Registrar

10.14.2021
Ráál

Sáangi 1 CMC § 2153(e) (átirowal AG reel mwóghutughut bwe aa lléghló reel fféerúl) me 1 CMC § 9104(a) (3) (sáangi átirowal AG) reel pommwol mwóghutughut bwe ra takkal amwuri fischiiy me aa lléghló me aa átirow igha aa fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalap CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).



EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

10/14/2021
Ráál

**SUBCHAPTER 185-10
COMMONWEALTH HEALTH CARE PROFESSIONS LICENSING BOARD
REGULATIONS**

Part 4700- Licensed Marriage and Family Therapist

§ 185-10-4701	Definitions
§ 185-10-4705	Licensing
§ 185-10-4710	Exemptions from License Requirements
§ 185-10-4715	Requirements for Licensure
§ 185-10-4720	Supervision: Practicum Experience
§ 185-10-4725	Supervision: Postgraduate
§ 185-10-4730	Written Exam
§ 185-10-4735	Licensure by Endorsement
§ 185-10-4740	Application for a licensure
§ 185-10-4745	Continuing Education (CE)
§ 185-10-4750	Renewal
§ 185-10-4755	Grounds for imposition of disciplinary sanctions.
§ 185-10-4760	License required if designation used.
§ 185-10-4765	Limitation of practice.
§ 185-10-4770	[Reserved]
§ 185-10-4775	Code of Ethics
§ 185-10-4780	Privileged Communication.
§ 185-10-4785	Disciplinary Action

§ 185-10-4701 Definitions

For purposes of this Article, the following words and phrases have been defined to mean:

- (1) **“Accredited or approved school”** means a college or the university that has met the standards as established by the Middle States Association of Colleges and Secondary Schools, the New England Association of Colleges and Secondary Schools, the North Central Association of Schools and Colleges, the Western Association of Schools and Colleges, or by another accrediting or recognized approval agency, including state or Federal approving agencies.
- (2) **“Family”** means all forms of households that consist of members with emotional bonds and mutual obligations that define themselves as families. “Family” as used here includes, but is not limited to, nuclear families (i.e., once married couples with children), single parent families, non-married couples with children, reconstituted families (remarried couples), and couples without children.
- (3) **“Family therapy”** means the systematic intervention enabling family members to understand the behavior of individuals in relation to the ongoing operations of the family group. This approach enables family members to generate a wider range of options for coping with problems, and to learn problem solving skills.
 - (a) **“Individual therapy”** means planned intervention to assist a client in coping more effectively with problems of living.
 - (b) **“Marriage means”** a socially sanctioned relationship between two (2) adults. Marriage determines specific roles, involving reciprocal obligations and duties, as well as legal rights.
 - (c) **“Marriage therapy”** means the therapeutic intervention with married couples, non-married couples, or alternative couples to resolve immediate problems and conflicts in their relationship.
 - (d) **“Therapist”** means a person licensed in the Commonwealth of the Northern Marianas to practice therapy, as defined in these rules and regulations.
 - (e) **“Therapy”** means planned intervention to help the client enlarge competencies and increase problem solving skills and coping abilities. Therapy can be used interchangeably with counseling and psychotherapy.
 - (f) **“Psychotherapy”** means a specialized, formal interaction between an Individual, Marriage and Family Therapist or other Mental Health Professionals, and a client (an individual, couple, family, or group) in which a therapeutic relationship is established to help resolve symptoms of mental disorder, psychosocial stress, relationship problems, and enhance problem solving skills and coping abilities.

§ 185-10-4705 Licensing

No person who does not hold a current license shall practice or offer to professional or mental health counseling or use in connection with the person’s name, or otherwise assume, use, or advertise, any title,

initials, or description tending to convey the impression that the person is a professional counselor, mental health counselor, marriage and family therapist, or mental health counselor associate. No partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing professional or mental health counseling unless an individual holding a current license is or will at the appropriate time be rendering professional or mental health counseling to which reference is made.

§ 185-10-4710 Exemptions from License Requirements

- (+) These regulations shall apply to all licensed marriage and family therapists in the CNMI except:
- (a) ~~Students whose activities are conducted within a course of marriage and family therapy counseling;~~
 - (b) ~~Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacity as a member of the clergy; and provided further that the person does not represent himself/herself to be a licensed mental health or professional counselor or mental health counselor associate;~~
- (1) Federal or State government employees in job classifications of social service workers and family service workers providing counseling and support services to individuals in state mental health services for family and children, state hospital and treatment facility, drug abuse facilities, or state prison facility. Individuals in this category shall be exempt from having an active license to provide counseling services provided (1) the individual has met the minimum pre/post graduate supervision training experience in marriage and family therapy set forth in these regulations, (2) the individual holds a master's degree in marriage and family therapy from a regionally accredited institution and (3) the individual must be under the supervision of Licensed Psychiatrist, Licensed Psychologist, Licensed Social Worker, or other qualified licensed provider approved by the Board; and does not represent himself/herself to be a licensed mental health or professional counselor or associate;
- (2) ~~Any person who is obtaining supervised clinical experience for licensure as a Marriage and Family Therapist, psychologist or social worker; provided that the person does not represent himself/herself to be a licensed mental health or professional counselor or associate;~~
- (2) Individuals working as clinical counselors who (1) have met the minimum pre/post graduate supervision training experience in marriage and family therapy set forth in these regulations, (2) holds a master's degree in marriage and family therapy from a regionally accredited institution and (3) are under the clinical supervision of Licensed Psychiatrist, Licensed Psychologist, Licensed Social Worker, or other qualified licensed provider approved by the Board; and does not represent himself/herself to be a licensed mental health or professional counselor or associate;
- (3) Any qualified members of other professions, including but not limited to nurses, psychologists, social workers, physicians, physician assistants, or attorneys at law, from providing the services of mental health or professional counseling nature consistent with the accepted standards of their respective professions; and provided further that the person does not represent himself/herself to be a licensed marriage and family therapist; and

- ~~(4) The provision of mental health services through the department of human services or juvenile court; provided that the person does not represent him/herself to be a licensed mental health or professional counselor or associate.~~
- ~~(4) Individuals providing instructions and/or research in educational institutions;~~
- ~~(5) Any person who is a duly recognized member of the clergy, provided that the person functions only within the scope of the performance of the ministerial duties of an established and legally recognizable church or denomination and the person performing the services remains accountable to the established authority of the Church or denomination and provided further, that the person does not represent himself/herself to be a licensed mental health or professional counselor or mental health counselor associate;~~
- ~~(7) Individuals responding to a state emergency declaration.~~

§ 185-10-4715 Requirements for Licensure

An applicant to practice as a licensed marriage and family therapist must be at least twenty-one (21) years of age is a U.S. citizen or a foreign national lawfully entitled to remain and work in the Commonwealth, and meets the following requirements:

- (1) Have completed a master's or doctoral program in marriage and family therapy from a program accredited by the American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or completed a master's or doctoral degree in marriage and family therapy from a regionally accredited educational institution; or earned a master's graduate degree in another mental health field (psychiatry, psychology, clinical social work, psychiatric nursing, etc.) from an accredited counseling program from a college or university accredited by an agency recognized by the U.S. Department of Education in counseling and completed a COAMFTE accredited post-graduate degree clinical training program in marriage and family therapy or completed a post-graduate degree clinical training program in marriage and family therapy from a regionally accredited educational institution. An applicant may substitute equivalent post-degree courses to meet the course of study requirements. The coursework must be verified by the official graduate school transcripts, which specify number of quarter or semester hours. Applicants who have obtained the American Association for Marriage and Family Therapy (AAMFT) clinical membership status are considered to have met the educational requirements for licensure. If applying through the AAMFT clinical status, verification must be from the AAMFT directly to the department. Of the graduate credit hours required above, at least forty-five (45) credit hours shall be in the following areas:
- (a) Three (3) courses in the analysis of family systems, with one (1) course in each of the following:
- (i) A supervised clinical practice that includes at least sixty (60) hours of approved supervision and 300 hours of direct client contact with couples, families, and individuals, at least 100 hours of which are relational therapy;
- (ii) Normal and abnormal personality development which includes individual development across the life span and the family life cycle; and

- (iii) Psychopathology with emphasis on standard diagnostic manuals, as well as family systems models;
- (b) Courses in couples therapy theory and techniques as follows:
 - (i) One course in diagnosis and treatment of mental and emotional disorders in family systems
 - (ii) A comprehensive survey course with substantive overview of the extant major models of family therapy; and
 - (iii) Two (2) additional courses which focus on one (1) or several marriage and family therapy models, or three (3) separate courses, each of which focuses on one (1) or several marriage and family therapy models;
- (c) Courses in couples therapy theory and techniques as follows:
 - (i) A comprehensive survey of extant, major models of couples' therapy;
 - (ii) An intensive study of at least three (3) different models; or
 - (iii) Three (3) separate courses, each of which addresses a separate couples' model;
- (d) One (1) course covering gender and ethnicity as they relate to marriage and family theory and practice, or two (2) separate courses with one (1) focusing on gender issues and the other one (1) on ethnicity;
- (e) One (1) course covering sexual issues in marriage and family therapy, including sexual normality, sexual dysfunction, and sexual orientation; and
- (f) One (1) course in ethical, legal, and professional issues in marriage and family therapy.

§ 185-10-4720 Supervision: Practicum Experience

Applicant must complete the supervised counseling work experience required of this section; There must be at least 400 hours of supervised practicum, inclusive of at least 150 face-to-face counseling hours. The practicum may include seventy-five (75) hours of client-centered advocacy; if not, there must be an additional seventy-five (75) hours of face-to-face counseling. Some students will complete more than the minimum supervised hours. The practicum experience shall be completed under the on-site clinical supervision of a person who is a licensed mental health counselor, licensed psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed physician with a specialty in psychiatry or other licensed provider approved by the board.

§ 185-10-4725 Supervision: Postgraduate

Applicants must complete the following supervised, clinical, or counseling work experience after the award of the master's degree, doctoral degree, or its substantial equivalent as determined by the board, of which shall:

185-10 HEALTH CARE PROFESSIONS LICENSING BOARD

- (1) Be a minimum of two (2) years or the equivalent of fulltime, postgraduate supervised clinical or counseling work experience in professional/mental health counseling; and
- (2) Be completed following the practicum, internship, and all graduate coursework, except for the thesis; and
- (3) Be a minimum of 3,000 total hours, including at least 1,000 client contact clock hours of supervised clinical experience at a setting acceptable to the board; and
- (4) Have direct clinical contact with couples and families and must have been supervised a minimum of 200 hours including 100 individual and 100 group hours; and
- (5) The supervisee must meet with the supervisor for a minimum of four (4) hours per month and provide documentation of supervised hours; and
- (6) Have only supervised clinical contact credited for this requirement; and
- (7) Compute part-time employment on a prorated basis for the supervised work experience; and
- (8) Have the background, training, and experience that is appropriate to the functions performed; and
- (9) The documented hours of client service, or post-graduate experience, must be under the on-site supervision of a licensed marriage and family therapist, licensed psychologist, licensed psychiatrist, or licensed social worker within the U.S or other qualified licensed provider approved by the Health Care Professions Licensing Board of the Commonwealth of the Northern Marianas. Licensed and qualified supervisors providing telepsychology clinical supervision must be board approved and licensed in the CNMI.
- (10) At the discretion of the Board, may approve tele-supervision.
- (11) Any licensed Marriage and Family Therapist providing tele-supervision from outside the CNMI must be licensed by the Board and, if providing services for a fee, must have a CNMI business license to conduct business in the CNMI.

§ 185-10-4730 Written Exam

The applicant must pass the Marital and Family Therapy National Examination (MFTNE) sponsored by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the California LMFT Exam sponsored by the California Board of Behavioral Sciences (BBS). To be considered for licensure the applicant must achieve at least the minimum passing score set by the respective exam developer.

§ 185-10-4735 Licensure by Endorsement

- (1) The Board may grant a license to a person to practice professional or mental health counseling without examination if:
 - (a) The person holds a valid, active license to practice as a professional or mental health counselor or mental health counselor associate in another jurisdiction; and

- (b) The person substantially complies with the requirements for licensure in section 185-10-4715; and
 - (c) The requirements in the jurisdiction of licensure are at least as stringent as those under these regulations.
- (2) The Board may deny a license by endorsement to a person to practice as a professional or mental health counselor or mental health counselor associate, if the person has been the subject of an adverse action in which his/her license was suspended, revoked, placed on probation, conditioned, or renewal denied.

§ 185-10-4740 Application for a licensure

- (1) An application for a license to practice as a marriage and family therapist shall be made on a form to be provided by the Board accompanied with the following information and documentations as are necessary to establish that the applicant possesses the qualifications as required in these regulations.
- (2) Applicant must also provide:
- (a) The applicant's full name and all aliases or other names ever used, current address, date and place of birth, and Social Security number; and
 - (b) Applicant's 2x2 photograph taken within six (6) months from date of application; and
 - (c) The appropriate fees, including the application fee which shall not be refunded; and
 - (d) Originals of all documents and credentials, or notarized or certified copies acceptable to the Board of such documents and credentials, including but not limited to:
 - (i) Diploma or certificate showing successful completion of the appropriate degree in professional counseling or mental health counseling from the required educational school or program;
 - (ii) Documents showing proof that applicant has satisfactorily completed all the appropriate required training under § 185-10-4715;
 - (iii) Documents showing proof that applicant has taken and passed the appropriate required examination; or
 - (iv) Documents showing proof that applicant is licensed to practice as a marriage and family therapist in another jurisdiction and meets the licensing requirements in § 185-10-4715, when applicable; and
 - (e) A detailed educational history, including places, institutions, dates, and program descriptions of all his or her education beginning with secondary schooling and including all college, pre-professional, professional, and professional postgraduate training;
 - (f) A list of all jurisdictions, U.S. or foreign, in which the applicant is licensed or has ever applied for a license to practice as a marriage and family therapist

- (g) A list of all jurisdictions, U.S. or foreign, in which the applicant has been denied licensure or voluntarily surrendered a license to practice as marriage and family therapist;
 - (h) A list of all jurisdictions, U.S. or foreign, of all sanctions, judgments, awards, settlements, or convictions against the applicant that would constitute grounds for disciplinary action under the Act or these regulations.
- (3) All documents submitted in a foreign language shall be accompanied by a certified and accurate translation in English.

§ 185-10-4745 Continuing Education (CE)

- (1) For initial licensure, Marriage and Family Therapists are required to take HIV/AIDS seven (7) CE hours and at every renewal, he/she is required to take Law and Ethics and/or cultural competency for a total of six (6) CE hours.
- (2) Each Marriage and Family Therapist licensed to practice in the CNMI is required to complete forty (40) CE hours or four (4) CEU during the twenty-four (24) months prior to the expiration of his or her license as a prerequisite to the renewal of his or her biennial license.
- (3) One (1) hour of credit will be allowed for each clock or contact hour of CE participation. One (1) CEU equals to 10 clock, credit, or contact CE hours. One (1) academic semester hour equals to fifteen (15) CE credit or contact hours. One (1) academic quarter hour equals to ten (10) CE credit or contact hours.
- (4) Approved continuing education activities include but are not limited to the American Association of Marriage and Family Therapy (AAMFT), American Mental Health Counselors Association, the American Association of State Counseling Boards, American Psychological Association, the Canadian Counseling and Psychotherapy Association, and the National Board for Certified Counselors.
 - (a) A licensed Marriage and Family Therapist shall take CE/CEU including, but not limited from the following content areas:
 - (i) Counseling Theory/Practice and the Helping Relationship;
 - (ii) Human Growth and Development;
 - (iii) Social and Cultural Foundations;
 - (iv) Group Dynamics, Processing and Counseling;
 - (v) Career Development and Counseling;
 - (vi) Research and Program Evaluation;
 - (vii) Counselor Professional Identity and Practice Issues;
 - (viii) Ethics; and

(ix) Multiple Sessions/Conferences.

- (4) If a licensee fails to meet the CE requirements for renewal of license because of illness, military service, or other extenuating circumstances, the Board, upon appropriate written explanation, may grant an extension of time to complete same, on an individual basis.
- (5) It shall be the responsibility of the licensee to obtain documentation, satisfactory to the Board, from the organization or institution of his or her participation in the continuing education, and the number of credits earned.
- (6) Licensure renewal shall be denied to any licensee who fails to provide satisfactory evidence of completion of CE requirements or who falsely certifies attendance at or completion of the CE as required herein.

§ 185-10-4750 Renewal

- (1) All licenses, except temporary or limited licenses issued by the Board, expire every two (2) years following issuance or renewal and become invalid after that date.
- (2) Each licensee shall be responsible for submitting a completed renewal application at least sixty (60) days before the expiration date. The Board shall send, by mail or email, a notice to every person licensed hereunder giving the date of expiration, the fee, and any additional requirement for the renewal thereof.
- (3) All licensees must submit satisfactory evidence of completion of CE/CEU requirements, as required under section 185-10-4745.
- (4) A late fee of \$25.00 will be charged every 1st of the month after the expiration date.
- (5) Licenses which have expired for failure to renew on or before the date required may be reinstated within one (1) year of the expiration date upon payment of the renewal and late fees for each calendar month until the renewal fee is paid. Each licensee whose license has expired and lapsed for more than one (1) year by failure to renew must file a new application, meet current requirements for licensure, and receive Board approval.
- (6) A licensee whose license has been revoked, suspended, or placed on probation by the licensing authority of another U.S. or foreign jurisdiction, or who has voluntarily or involuntarily surrendered his or her license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the expiration date of his or her license, may be deemed ineligible for renewal of his or her license to practice as a marriage and family therapist in the CNMI. This will not, however, prevent the Board from considering a new application.

§ 185-10-4755 Grounds for imposition of disciplinary sanctions.

- (1) After a hearing, the board may impose a disciplinary sanction under § 185-10-1210 on a person licensed under this chapter when the board finds that the person (1) secured a license through deceit, fraud, or intentional misrepresentation; (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional

activities; (3) advertised professional services in a false or misleading manner; (4) has been convicted of a felony or of another crime that affects the person's ability to practice competently and safely; (5) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the board; (6) continued to practice after becoming unfit due to (A) professional incompetence; (B) addiction or severe dependency on alcohol or another drug that impairs the person's ability to practice safely; (7) engaged in unethical conduct in connection with the delivery of professional services to clients; (8) engaged in sexual misconduct with a client during the course of therapy, either within or outside the treatment setting, or within two years after therapy or counseling with the client has terminated; in this paragraph, "sexual misconduct" includes sexual contact, as defined in regulations adopted under this chapter, or attempted sexual contact, regardless of the client's or former client's consent or lack of consent.

§ 185-10-4760 License required if designation used.

A person who is not licensed under this chapter or whose license is suspended or revoked, or whose license has lapsed, who knowingly uses in connection with the person's name the words or letters "L.M.F.T.," "L.M.F.C.," "Licensed Marital and Family Therapist," "Licensed Marriage and Family Counselor," or other letters, words, or insignia indicating or implying that the person is licensed as a marital and family therapist by this state or who in any way, orally or in writing, directly or by implication,

knowingly holds out as being licensed by the state as a marital and family therapist in this state is guilty of a class B misdemeanor.

§ 185-10-4765 Limitation of practice.

Notwithstanding that a specific act is within the definition of the "practice of marital and family therapy," a person licensed under this chapter may not perform the act if the person lacks the appropriate education, training, and experience related to the act.

§ 185-10-4770 [Reserved]

§ 185-10-4775 Code of Ethics

The Board recognizes the American Association for Marriage and Family Therapy's (AAMFT) Code of Ethics and licensed counselors are responsible for ensuring that their behavior adheres to the standards identified in the Code of Ethics.

§ 185-10-4780 Privileged Communication.

Breach of a privileged communication, except as provided for in this Article is considered unprofessional conduct and grounds for revocation or suspension of a license.

§ 185-10-4785 Disciplinary Action

The Board shall have the power to impose administrative penalties and/or reprimands; revoke or suspend; refuse to issue, restore, or renew, the license of any person who is found guilty of one or more of the violations enumerated in § 2224 of P. L. 15-105 and sections 185-10-901 through 185-10-1301.



Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD
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Capitol Hill, Saipan, MP 96950
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Email: cnmi@cnmibpl-hcplb.net
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**NOTICE OF PROPOSED AMENDMENTS TO THE
HEALTH CARE PROFESSIONS LICENSING BOARD FOR
ADDICTION PROFESSIONAL**

INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION: The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Amendment, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

AUTHORITY: The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to 3 CMC § 2206(b), as amended.

THE TERMS AND SUBSTANCE: Regulation History: PL 15-105 (effective when approved by Governor Benigno R. Fitial, November 7, 2007), the "Health Care Professions Act of 2007," 3 CMC §§ 2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the act. See PL 15-105. 3 CMC § 2206(b), which empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions, including define and describe the regulated professions and their practice. The Addiction Professional are to be included in the health care professions, under the power, jurisdiction and authority of the HCPLB. §2212 of PL 15-105. (This is a new regulation and is not included in §2212)

THE SUBJECTS AND ISSUES INVOLVED: These are proposed rules and regulations for the practice of Addiction Professional.

DIRECTIONS FOR FILING AND PUBLICATION: The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4809 or by email at cnmi@cnmibpl-hcplb.net or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.

Submitted By:


Esther S. Fleming
Executive Director


Date

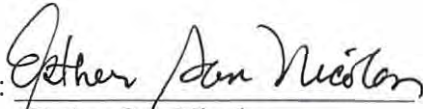
Received By:


Matilda A. Rosario
Special Assistant for Administration

10/14/21

Date

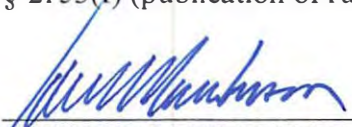
Filed and Recorded By:


Esther San Nicolas
Commonwealth Registrar

10.14.2021

Date

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


EDWARD MANIBUSAN
Attorney General

10/14/2021

Date



Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD

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**NUTISIA PUT I MANMAPROPONI NA AMENDA
PARA “ADDICTION PROFESSIONAL” GI HEALTH CARE PROFESSIONS
LICENSING BOARD**

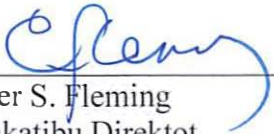
I AKSION NI MA'INTENSIONA NI PARA U MA'ADĀPTA ESTI I MANMAPROPONI NA REGULASION SIHA: I Health Care Professions Licensing Board (HCPLB) ha intensiona para u adāpta komu petmanienti na regulasion siha ni mañechettun i Manmaproponi na Amenda, sigun para i manera siha gi Ākton Administrative Procedure, I CMC § 9104 (a). I regulasion siha para u ifektibu gi dies (10) dihas dispues di compliance yan i I CMC §§ 9102 yan 9104 (a) pat (b) (I CMC § 9105 (b)).

ĀTURIDĀT: I Health Care Professions Licensing Board gai finuetsa para u macho'gui yan inafektibu i regulasion siha sigun para 3 CMC § 2206(b), kumu ma'amenda.

I TEMA YAN SUSTĀNSIAN I PALĀBRA SIHA: Istorian Regulasion: Lai Pupbliku No. 15-105 (umifektibu annai inaprueba ni as Magalāhi Benigno R. Fitial gi Nubembri 7, 2007), i “Ākto Health Care Professional nu 2007,” 3 CMC §§2201-36. I Ākto fuma'tinas i Health Care Professional Licensing Board, komu independienti i regulatori na ahensia, sin mapega gi halum i DipĀttamentu. I Kuetpu ma'aturisa para u lisensia i “health care professional” gi halum i Commonwealth, istapblesi “standards” para prugrāman edukasion siha, dirihi “exams”, yan para u disiplina i “licensees” ni kumuntradikta i Ākto. Taitai I PL 15-105 3 CMC § 2206(b), ni fumuetsāo i Kuetpu para u adāpta i areklamentu yan i regulasion siha ni pumarehu yan i Ākto yan nisisāriu para u kātga huyung i prubension i Ākto siha, kuntodu difina yan diskribi i magubietna na “professions” yan i prinaktikan-ñiha. I “Addiction Professional” para u ma'ingklusu hālum gi health care professions, pāpa' i fuetsa, aturidāt yan aturidāt nu i HCPLB. § nu PL 15-105. (Nuebu esti na regulasion ya ti ingklusu gi halum §2212)

I SUHETU NI MASUMĀRIA YAN ASUNTU NI TINEKKA: Estagui' siha i manmaproponi na regulasion para i prinaktikan nu “Addiction Professional.”

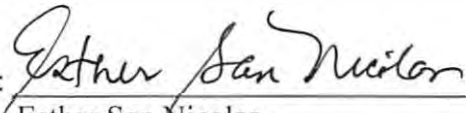
DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: I Kuetpu manmamamaisin upiñon put esti i manmaproponi na amenda siha ni debi u marisibi ni Kuetpu gi halum i trenta (30) dihas nu i fine'na na pupublikasion esti na nutisia gi halum i Rehistran Commonwealth. I intires na petsona siha siña manrikuesta kopia nu i manmaproponi na amenda yanggin en āgang hami gi 664-4809 pat email gi cnmi@cnmibpl-hcplb.net pat fāttu gi ufisinin-māmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. I tinigin upiñon put esti na amenda siha debi na u machuli' guatu gi ufisinin-māmi pat na'hanāo para i BPL, P.O. Box 502078, Saipan, MP 96950.

Nina'hålum as: 
Esther S. Fleming
Eksakatibu Direktot

10/14/21
Fetcha

Rinisibi as: 
Matilda A. Rosario
Ispisiât Na Ayudânti Para l Atministrasion

10/14/21
Fetcha

Pine'lu Yan Ninota as: 
Esther San Nicolas
Rehistran Commonwealth

10.14. 2021
Fetcha

Sigun i l CMC § 2153 (e), (Inapruuban Abugâdu Henerât i regulasion siha ni para u macho'gui kumu fotma) yan i l CMC § 9104 (a) (3) (inahentan inapruuban Abugâdu Henerât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient l ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika, l CMC § 2153 (f) (pupublikasion areklamentu yan regulasion siha).


Edward E. Manibusan
Abugâdu Hinirât

10/14/2021
Fetcha



Commonwealth Téel Falúw kka Efáng Ilól Marianas
HEALTH CARE PROFESSIONS LICENSING BOARD
P.O. Box 502078, Bldg., 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4809 Fax: (670) 664-4814
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**ARONGORONGOL POMMWOL LIIWEL REEL
HEALTH CARE PROFESSIONS LICENSING BOARD NGÁLI
ADDICTION PROFESSIONAL**

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUTUGHUT: Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptááli bwe ebwe lléghló mwóghutughut iye e appasch bwe Pommwol Liiwel, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 1 CMC 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh (10) ráál mwiril aal angúúngú fengál me 1 CMC §§ 9102(a) me 9104(a) ngáre (b) (1 CMC § 9105(b)).

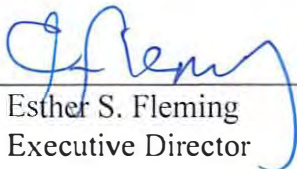
BWÁNGIL: Eyoor bwángil Health Care Professions Licensing Board rebwe aronga me ayoorai mwóghutughut sáangi 3 CMC § 2206(b), igha re liiweli.

KKAPASAL ME WEEWEL: Uruwowul Mwóghutughut: Alléghúl Toulap No. 15-105 (e ghikkil long llól allégh sáangi Samwool Benigno R. Fitial me e bwunguló wóól Aremwoy 7, 2007) “Health Care Profession Act of 2007”, 3 CMC §§2201-36. Act yeel e ayoor eew Health Care Professions Licensing Board, iye e lo bwe “independent regulatory agency”, nge rese isáli llól eew Bwulasiyo. Eyoor bwángil Board reel rebwe “license health care professionals” llól Commonwealth, itittiw “standards” ngáli “educational programs”, “administer exams”, me “discipline licensees for violation of the Act”. Alléghúl Toulap No. 15-105 3 CMC § 2206(b), e ayoorai bwángil Board reel rebwe adóptááli allégh me mwóghutughut iye e weewe fengál me Act me e ffil ebwe isiisiwow “Act provisions”, e schuulong faal me weewel “regulated professions and their practice”. “Addiction Profession” ebwe bwal schuulong llól health care professions, faal bwángil, bwángil lemelemil HCPLB. § reel Alléghúl Toulap No. 15-105. (E ffé mwóghutughut yeel me ese schuu llól §2212).

KKAPASAL ME ÓUTOL: Pommwol mwóghutughut kkal nge ngáli mwóghutughutúl “Addiction Professional”.

AFAL REEL AMMWELIL ME AKKAÉÉWOWUL: Board re tingór kkapas iye e ssúl ngáli pommwol liiwel iye rebwe bwughi sáangi Board llól eliigh (30) ráál mwiril aal ghommwal akkatééwowul arongorong yeel me llól Commonwealth Register. Schóó kka re mwuschel pappidil pommwol liiwel faingiló 664-4809 ngáre email-li cnmi@cnmibpl-hcplb.net ngáre mweteti bwulasiyo me Bldg. 1242, Pohnpei Ct., Capitol Hill, Seipél. Ischil kkapas wóól liiwel kkal ebwe bweibwoghlo bwulasiyo ngáre afangaló BPL, P.O. Box 502078, Saipan, MP, 96950.

Isáliyalong:


Esther S. Fleming
Executive Director


Ráál

Bwughiyal:

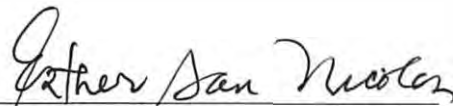


Matilda A. Rosario
Special Assistant ngáli Administration

10/14/21

Ráál

Ammwelil:



Esther San Nicolas
Commonwealth Registrar

10.14.2021

Ráál

Sáangi 1 CMC § 2153(e) (átirowal AG reel mwóghutughut bwe aa lléghló reel fféérúl) me 1 CMC § 9104(a) (3) (sáangi átirowal AG) reel pommwol mwóghutughut bwe ra takkal amwuri físchiiy me aa lléghló me aa átirow igha aa fféérúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).



EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

10/14/2021

Ráál

SUBCHAPTER 185-10

COMMONWEALTH HEALTH CARE PROFESSIONS LICENSING BOARD REGULATIONS

Part 4800- Addiction Professionals

§ 185-10-4801.	Definitions.
§ 185-10-4805.	Licensing.
§ 185-10-4810.	Requirements.
§ 185-10-4815.	Scope of Work
§ 185-10-4820.	Exemptions.
§ 185-10-4825.	Examination.
§ 185-10-4830.	Fees.
§ 185-10-4835.	Continuing Education.
§ 185-10-4840.	Restrictions.
§ 185-10-4845.	Privileged Communication.
§ 185-10-4850.	Disciplinary Action

§ 185-10-4801. Definitions.

- (1) **"Act"** refers to the Board's enabling legislation, codified at 3 CMC §§ 2201–2236.
- (2) **"ADC"** means Addiction Disorder Counselor
- (3) **"Addiction counseling"** means a process involving a therapeutic relationship between a client who is experiencing addiction, dependence or abuse of alcohol or other drugs and a counselor or therapist trained to provide that assistance to address addiction, dependence, or abuse. Addiction counseling includes understanding and application of the limits of the counselor's own qualifications and scope of practice, including, but not limited to, screening and, as indicated, referral to or consultation with an appropriately licensed healthcare practitioner consistent with the client's needs. Addiction counseling includes all the following:
 - (a) Clinical intake, assessment, and evaluation
 - (b) Treatment planning
 - (c) Referral
 - (d) Service coordination/case management
 - (e) Counseling, including individual, group, family, and couples counseling
 - (f) Client, family, and community education
 - (g) Documentation
 - (h) Professional and ethical responsibilities
- (4) **"Advertise"** includes, but is not limited to, the issuance of any card, sign or device to any person, or the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or any printed matter, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting, the Internet, or any other electronic medium.
- (5) **"Board"** refers to the Healthcare Professions Licensing Board.
- (6) **"Certified Addiction Counselor"** means an individual who meets the requirements of these regulations and is licensed as a certified addiction counselor by the Board.
- (7) **"Clinical supervision"** means the ongoing process in which the supervisor participates with one or more supervisees to ensure high quality service delivery across domains of counselor development, professional and ethical standards, program development, quality assurance, performance evaluation and administration, as described in "Competencies for Substance Abuse Treatment Clinical Supervisors," Technical Assistance Publication Series No. 21-A, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health

Services Administration Center for Substance Abuse Treatment, or other sources as the Board may specify by regulation.

- (8) **"Continuing education"** means an orderly process of instruction that is approved by an organization or the Board for addiction professionals and designed to directly enhance the practitioner's knowledge, competence, and skill in providing services relevant to his or her occupation.
- (9) **"Counseling"** means techniques and methods used to help individuals learn how to solve problems and make decisions related to personal growth, vocational, environmental, family, social, financial, and other interpersonal concerns.
- (10) **"EMAC"** means Examination for Master Addiction Counselor.
- (11) **"IC&RC"** means International Certification & Reciprocity Consortium
- (12) **"Independent practice of addiction counseling"** means a person who renders for compensation, addiction counseling-related services to an individual, group, organization, corporation, institution, or the public, and who is licensed, trained, or experienced in addiction counseling, and who holds a license issued under this chapter to engage in such services.
- (13) **"Master Addiction Counselor"** means an individual who meets the requirements of these regulations and is licensed as a master addiction counselor by the Board.
- (14) **"NAADAC"** means National Association for Alcoholism and Drug Abuse Counselors
- (15) **"NBCC"** means National Board of Certified Counselors.
- (16) **"NCAC"** means National Certified Addiction Counselor
- (17) **"NCC AP"** means National Certification Commission for Addiction Professionals.
- (18) **"Practice of addiction counseling"** means the providing of professional services that are delivered by a licensed addiction professional, that are designed to change substance use or addictive behavior, and that involve specialized knowledge, competence, and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:
 - (a) gathering information through structured interview screens using routine protocols;
 - (b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;
 - (c) referring for assessment, diagnosis, evaluation, and mental health therapy;
 - (d) providing client and family education related to addictions;

- (e) providing information on social networks and community systems for referrals and discharge planning;
 - (f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;
 - (g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings, including but not limited to:
 - (i) mental and physical health facilities; and
 - (ii) child and family service agencies; and
 - (h) maintaining the highest level of professionalism and ethical responsibility.
- (19) **"Practitioner"** means an individual who holds an unlimited license, certificate, or registration; a limited or probationary license, certificate, or registration; a temporary license, certificate, registration, or permit; an intern permit; or a provisional license.
- (20) **"Professional Addiction Counselor"** means a person who renders for compensation, addiction counseling-related services to an individual, group, organization, corporation, institution, or the public, and who is licensed, trained, or experienced in addiction counseling, and who holds a license issued under this Part to engage in the professional practice of addiction counseling.
- (21) **"Registrant"** means an uncertified or unlicensed person who is while completing the requirements for certification or licensure under these regulations, who has completed no less than 12 semester units, or 18 quarter units of the education required under these regulations and who is registered with the Board.
- (22) **"Supervised work experience"** refers to a time during which an applicant provides addiction counseling services directly to clients diagnosed with a substance use disorder, including treatment of clients, and at least fifty percent (50%) of the time consists of providing addiction counseling services directly to clients diagnosed with a substance use disorder. The supervisor(s) must be approved by the Board in advance of applicant providing any addiction counseling services.
- (23) **"Supervisee"** means a registrant or certified or licensed addiction counselor under these regulations who is seeking to meet the supervised experience requirements of these regulations.

§ 185-10-4805. Licensing.

An individual may not engage in the practice of professional addiction counseling unless the person is licensed as a Certified Addiction Counselor (Level I/NCAC I), Certified Addiction Counselor (Level II/NCAC II), or Master Addiction Counselor under these Regulations.

§ 185-10-4810. Requirements.

- (1) The Board shall certify or license, at the appropriate level, as applicable, everyone who the Board determines to meet the criteria outlined below.
- (2) **Certified Addiction Counselor (Level I/NCAC I) licensing requirements.** An individual who applies for licensure as an Addiction Counselor Level I must meet the following requirements:
 - (a) Furnish satisfactory evidence to the Board that the individual has:
 - (i) AA Degree or higher with a clinical application, including at least 270 clock hours of substance use disorder related topics, six (6) hours of which must be related to ethics education and training within the last six (6) years and six (6) hours related to HIV/AIDS/Other pathogens education and training within the last six (6) years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.
 - (ii) Completed 6,000 hours of supervised work experience or three (3) years full time work in substance use disorders training, with 600 hours being direct client work, prior to taking the examination. Supervisor and supervisee must keep records of the experience and supervision hours. At the end of the supervision period, the supervisor must prepare and forward to the board a written evaluation, including a written evaluation for this credential including written certification of successfully completed supervised hours of substance use disorder training and any hours not successfully completed.
 - (b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (i) convictions of two (2) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (ii) a conviction of a violent felony within two (2) years prior to the date of the Board's determination.
 - (iii) a conviction related to a controlled substance within two (2) years prior to the date of the Board's determination.
 - (c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.
 - (d) A passing score on one (1) of the following exams:
 - (i) NCAC Level One (1) exam through National Certification Commission for Addiction Professionals (NCCAP).
 - (ii) ADC exam through the International Certification & Reciprocity Consortium

(IC& RC).

- (e) Submit a completed application to the Board for review.
- (f) Pay the fee established by the Board.
- (3) Certified Addiction Counselor (Level II/NCAC II) licensing requirements. An individual who applies for licensure as an Addiction Disorder Counselor Level II must meet the following requirements:
 - (a) Furnish satisfactory evidence to the Board that the individual has:
 - (i) received a bachelor's degree or higher in addiction counseling or other allied mental health profession (social work, mental health counseling, psychology), including at least 450 clock hours of substance use disorder related topics, six (6) hours of which must be related to ethics education and training within the last six (6) years and six (6) hours related to HIV/AIDS/Other pathogens education and training within the last six (6) years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.
 - (ii) completed 6,000 hours of supervised work experience or three (3) years full time work in substance use disorders training, with 600 hours being direct client work, prior to taking the examination for this credential.
 - (b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (i) convictions of two (2) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (ii) a conviction of a violent felony within two (2) years prior to the date of the Board's determination.
 - (iii) a conviction related to a controlled substance within two (2) years prior to the date of the Board's determination.
 - (c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.
 - (d) A passing score on one (1) of the following exams:
 - (i) National Certified Addiction Counselor Level II exam through National Certification Commission for Addiction Professionals (NCC AP).
 - (ii) EMAC exam through the National Board of Certified Counselors (NBCC).
 - (iii) AADC exam through the International Certification & Reciprocity Consortium

(IC & RC).

- (e) Submit a completed application to the Board for review.
- (f) Pay the fee established by the Board.
- (4) Master Addiction Counselor (Level III) licensing requirements. An individual who applies for a license as a Master Addiction Disorder Counselor Level III must meet the following requirements:
 - (a) Furnish satisfactory evidence to the Board that the individual has:
 - (i) received a master's degree or higher in addiction counseling or other allied mental health profession (social work, mental health counseling, marriage and family counseling, psychology), including at least 500 hours of substance use disorder related topics, six (6) hours of which must be related to ethics education and training within the last six (6) years and six (6) hours related to HIV/AIDS/Other pathogens education and training within the last six (6) years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.
 - (ii) completed 6,000 hours of supervised work experience in substance use disorders, with 2, 000 hours being direct client work, prior to taking the examination for this credential but after obtaining the master's (or higher) degree.
 - (b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (i) convictions of two (2) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (ii) a conviction of a violent felony within two (2) years prior to the date of the Board's determination.
 - (iii) a conviction related to a controlled substance within two (2) years prior to the date of the Board's determination.
 - (c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.
 - (d) A passing score on one (1) of the following exams:
 - (i) Master Addiction Counselor (MAC) exam through National Certification Commission for Addiction Professionals (NCC AP).
 - (ii) EMAC exam through the National Board of Certified Counselors (NBCC).
 - (iii) AADC exam through the International Certification & Reciprocity Consortium (IC & RC).

- (e) Submit a completed application to the Board for review.
- (f) Pay the fee established by the Board.
- (5) Licensure education requirements
 - (a) All substance use disorders related education accepted for purposes of licensure must be from one of the “Addiction Counseling Competencies” outlined in the Technical Assistance Publication Series No. 21, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment.
 - (b) All clinical supervisor related education accepted for purposes of licensure must be from one of the “Competencies for Substance Abuse Treatment Clinical Supervisors” outlined in the Technical Assistance Publication Series No. 21A, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment.
 - (c) All degrees accepted for purposes of licensure must be from one of the following:
 - (i) a higher learning institution located in the United States or a territory of the United States that was accredited on the date of graduation by a regional or national accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or the U.S. Department of Education.
 - (ii) a higher learning institution located in Canada that was in good standing on the date of graduation with the Association of Universities and Colleges of Canada.
 - (iii) a foreign higher learning institution that on the date of graduation was recognized by the government of the country where the school was located as a program to train in the practice of addiction counseling and has maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or the U.S. Department of Education.
 - (d) Applicants with a master’s degree (or higher) that did not emphasize substance use disorders or mental health counseling may complete the course work requirement from an institution that is:
 - (i) accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP);
 - (ii) recognized by NAADAC, the Association of Addiction Professionals (NAADAC) – National Certification Commission for Addiction Professionals (NCC AP);
 - (iii) recognized by the International Certification and Reciprocity Consortium (IC & RC);

- (iv) accredited by the Commission on Accreditation of Marriage and Family Therapy Education (CAMFTE);
 - (v) accredited by the American Psychological Association's Commission on Accreditation (APA); or
 - (vi) accredited by the Council on Social Work Board (ASWB); or
 - (vii) accredited by the National Addiction Studies Accreditation Commission (NASAC).
- (e) Education and supervised work experience gained outside of the state may be accepted toward the licensure or certification requirements.
- (6) Licensure supervised work experience requirements
 - (a) The supervised work experience required must be provided by a qualified and licensed supervisor, as determined by the Board. Prior to the commencement of clinical supervision, a supervisor must comply with all requirements for supervisors as established by the Board by regulation.
 - (b) A doctoral internship may be applied toward the supervised work experience requirement.
 - (c) The supervised work experience requirement may be met by work performed at or away from the premises of the qualified supervisor. However, the supervised work experience requirement may not be performed away from the qualified supervisor's premises if:
 - (i) the work is the independent private practice of addiction counseling; or
 - (ii) the work is not performed at a place that has the supervision of a qualified supervisor.
 - (d) Experience shall be gained only in a setting that meets all the following:
 - (i) Lawfully and regularly provides alcohol and other drug counseling.
 - (ii) Provides oversight to ensure that the supervisee's work at the setting meets the experience and clinical supervision requirements set forth in these regulations and is within the scope of practice for the profession.
 - (iii) Work experience shall not be gained as an independent contractor.
 - (e) The required hours of supervised experience shall be obtained over a period of not less than two (2) years and shall have been gained within the six (6) years immediately preceding the date on which the application for certification or licensure was filed.
 - (f) Experience shall not be credited for more than forty (40) hours in any week.

- (g) The supervisor and the supervisee shall develop a supervisory plan that describes the goals and objectives of clinical supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The supervisee shall submit to the Board the initial original supervisory plan upon application for licensure or certification.
- (h) A supervisee must receive an average of at least one (1) hour of direct supervisor contact for every week in which more than ten (10) hours of face-to-face or group counseling is performed in each setting where experience is gained. (No more than five (5) hours of clinical supervision, whether individual or group, shall be credited during any single week.) For purposes of this section, "direct supervisor contact" means one (1) hour of face-to-face contact on an individual basis or two (2) hours of face-to-face contact in a group, of not more than eight (8) persons receiving clinical supervision, addressing the substance of the supervisory plan. The face-to-face contact may also be conducted using a telehealth service provider.
- (i) A supervisee may be either a paid employee or a volunteer. Employers are encouraged to provide fair remuneration to supervisees.
- (j) A supervisee shall not receive any remuneration from patients or clients and shall be paid only by his or her employer. A supervisee shall not have any proprietary interest in the employer's business.
- (k) A supervisee may receive clinical supervision from a person not employed by the supervisee's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the supervisee's substance use disorder counseling and hours of clinical supervision are formally recorded.
- (l) The Board may limit, by regulation, the number of registrants that anyone (1) supervisor may supervise, the number of registrants that may be supervised in any given program or setting, and the proportion of the workforce in any given program or setting, which may be comprised of registrants, or any of these.
- (m) A supervisor must be licensed in the CNMI to oversee the work of a supervisee.

§ 185-10-4815. Scope of Work

(1) Certified Addiction Counselor (Level I/NCAC I)

The Scope of Practice for the category of those with an AA degree include the following activities with clinical supervision from a Master Addiction Counselor/Supervisor (Level III or higher), licensed psychiatrist, clinical psychologist, licensed social worker, or other qualified provider approved by the board. The Certified Addiction Counselor I cannot provide clinical or administrative supervision of staff but can supervise community and social activities.

- (a) Diagnostic impression and Screening, Brief Intervention, Referral to Treatment of SUD
- (b) (SBIRT).

- (c) Monitor treatment plan/compliance
- (d) Referral
- (e) Service Coordination and case management for SUD
- (f) Psycho-educational counseling of individuals and groups
- (g) Client, Family, and Community Education
- (h) Documentation
- (i) Professional and Ethical Responsibilities

(2) Certified Addiction Disorder Counselor (Level II/NCAC II)

The Scope of Practice for the category of those with a bachelor's degree includes the following activities with clinical supervision of a Master Addiction Counselor/Supervisor (Level III or higher), licensed psychiatrist, licensed clinical psychologist, licensed social worker, or other qualified licensed provider approved by the board. The Certified Addiction Counselor (Level II/NCAC II) may provide administrative supervision of the Level I Addiction Counselor.

- (a) Screening, Brief Intervention, and Referral to Treatment Referral (SBIRT), Clinical evaluation, including diagnostic impression, screening, and assessment of SUD.
- (b) Treatment Planning for Substance Use Disorders (SUDs) and Co-Occurring Disorders (COD), including initial, ongoing, continuity of care, discharge, and planning for relapse prevention
- (c) Referral
- (d) Service Coordination and case management for SUDs and CODs
- (e) Counseling, therapy, trauma informed care, and psycho-education with individuals, families, and groups
- (f) Client, Family, and Community Education
- (g) Documentation
- (h) Professional and Ethical Responsibilities
- (i) Provide administrative supervision of Category 1 Substance Use Counselor.

(3) Master Addiction Counselor (Level III)

The Master Addiction Counselor typically has a Master or other post graduate degree. The following activities of an unlicensed Master Addiction Counselor will require clinical supervision

under a licensed Master Addiction Counselor (Level III or higher), licensed psychiatrist, licensed clinical psychologist, licensed social worker, or other qualified licensed provider approved by the board.

- (a) Clinical evaluation, including screening, assessment, and diagnosis of Substance Use Disorders (SUDs) and Co-Occurring Disorders (CODs)
- (b) Treatment Planning for SUDs and CODs, including initial, ongoing, continuity of care, discharge, and planning for relapse prevention
- (c) Referral
- (d) Service Coordination and case management in the areas of SUDs and CODs
- (e) Counseling, therapy, trauma informed care, and psycho-education with individuals, families and groups in the areas of SUDs and CODs
- (f) Client, Family, and Community Education
- (g) Documentation
- (h) Professional and Ethical Responsibilities
- (i) Clinical supervisory responsibilities for all categories SUD counselors.

§ 185-10-4820. Exemptions.

The Board may, in its sole discretion exempt an individual from the requirements set forth in these regulations and grant the individual an applicable license if the individual meets the following requirements:

- (1) Federal or state government employees in job classification of addiction counselor position providing rehabilitation and support services to individuals in mental health, alcohol, or drug abuse facilities, state hospital and treatment facility, division of state mental health services for family and children, or state prison facility. Individuals in this category shall be exempt from having an active license to provide addictions services provided the individual has the training experience and academic degree commensurate with the appropriate scope of work in addiction services (noted in § 185-10-4810) and must be under the supervision of a Licensed Psychiatrist, Licensed Clinical Psychologist, Licensed Social Worker, or other qualified licensed provider approved by the Board; and does not represent himself/herself to be a licensed mental health or professional counselor or associate;
- (2) Individuals working as clinical addictions counselors who possess the minimal training and education commensurate with the appropriate scope of work in addictions services (noted in § 185-10-4810) who are practicing under the supervision of a Licensed Psychiatrist, Licensed Clinical Psychologist, Licensed Social Worker, or other qualified licensed provider approved by the Board; and does not represent himself/herself to be a licensed mental health or professional counselor or associate;

- (3) Individuals providing instructions and/or research in educational institutions;
- (4) Any person who is a duly recognized member of the clergy, provided that the person functions only within the scope of the performance of the ministerial duties of an established and legally recognizable church or denomination and the person performing the services remains accountable to the established authority of the Church or denomination and provided further, that the person does not represent himself/herself to be a licensed mental health or professional counselor or mental health counselor associate;
- (5) Holds a valid certification/licensure as an addiction counselor or addiction therapist from a credentialing agency that is approved by the Board. (e.g. NAADAC or IC & RC).
- (6) Furnishes satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (a) convictions of two (2) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (b) a conviction of a violent felony within two (2) years prior to the date of the Board's determination.
 - (c) a conviction related to a controlled substance within two (2) years prior to the date of the Board's determination.
 - (d) Submit a completed application to the Board for review.
 - (e) Pay the fee established by the Board.
- (7) Trained in addictions counseling provided that such counseling is within the scope of their duties. These regulations do not apply to school counselors certified by the state education agency providing school counseling within the scope of school counselors.
- (8) The criteria for licensed clinical social workers, marriage & family therapists, or licensed professional counselors require 180 clock hours of substance abuse specific education to include any course with a specific substance abuse/chemical dependence focus. No more than ninety (90) of these hours may be counseling courses without a substance abuse focus. Also required are six (6) hours in confidentiality for substance abuse programs and six (6) hours of substance abuse ethics.
- (9) Nothing in these regulations shall be construed to limit the activities and services of a student, intern, or resident in professional addiction counseling seeking to fulfill educational requirements in order to qualify for a license under these regulations, or an individual seeking to fulfill the post-degree experience requirements in order to qualify for a license under these regulations, if the activities or services are supervised as specified in these regulations, and that the student, intern, or resident is designated by the term "intern" or "resident" or other designation of trainee status. Nothing in this section shall be construed to permit students, interns, or residents to offer their services as professional addiction counselors to any person and to accept remuneration for such

professional addiction counseling services other than as specifically exempted in this section, unless they have been licensed under these regulations.

- (10) Nothing in these regulations shall prohibit individuals not licensed under the provisions of these regulations who work in self-help or mutual support groups or programs or not-for profit organizations from providing services in those groups, programs, organizations, or healthcare financing agencies, as long as those persons are not in any manner held out to the public as practicing professional addiction counseling, or do not hold themselves out to the public by any title or designation stating or implying that they are professional addiction counselors.

§ 185-10-4825. Examination.

- (1) The written examinations the Commonwealth of the Northern Marianas Islands recognizes are sponsored by the National Association of Alcohol and Drug Abuse Counselors (NAADAC) and the International Certification and Reciprocity Consortium (IC&RC). The board recognized National and Regional certification boards; National Certification Commission for Addiction Professionals (NCC AP) and the National Boards for Certified Counselors (NBCC).
- (2) An individual who wishes to apply for licensure as an addiction professional must take the corresponding examination.
- (3) An applicant's identity will be kept confidential and test scores are held by the testing board.
- (4) An applicant who fails the examination may take a subsequent examination on payment of the required examination fee. However, an applicant may only take two (2) subsequent examinations within a one (1) year period for a total of three (3) exam in a one-year period.
- (5) An individual who applies for an addiction counselor license under this article may be exempted by the Board from the examination requirement if the individual has met all the following:
- (a) is licensed or certified as an addiction counselor in another state and has passed a licensing or certifying examination substantially equivalent to the licensing examination required under these regulations;
 - (b) has engaged in the practice of addiction counseling and/or supervision for at least three of the previous five (5) years;
 - (c) has not committed a crime of moral turpitude and has not had any adverse actions taken against them by any licensing board of any jurisdiction and is not under investigation for any act that constitutes a violation of these regulations.

185-10 HEALTH CARE PROFESSIONS LICENSING BOARD**§ 185-10-4830. Fees.**

PROFESSION	APPLICATION FEE	INITIAL LICENSE	RENEWAL LICENSE	LATE FEE/LICENSE VERIFICATION
Certified Addiction Counselor (Level I/NCAC I)	\$100	\$100	\$200	\$25
Certified Addiction Counselor (Level II/NCAC II)	\$100	\$100	\$200	\$25
Master Addiction Counselor	\$100	\$100	\$200	\$25

§ 185-10-4835. Continuing Education.

The Board shall prepare or approve the preparation and administration of continuing education programs for licensed addiction counselors under this Act. The Board shall provide by rule for the administration of the continuing education requirements for license renewal under these regulations.

- (1) A person licensed under these regulations must complete at least forty (45) hours of continuing education within the two (2) year period in which the person holds a license as a requirement for the renewal of the license.
- (2) The practitioner shall provide the Board with a sworn statement executed by the practitioner that the practitioner has fulfilled the continuing education requirements required by the Board.
- (3) The practitioner shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The practitioner shall provide the Board with copies of the certificates of completion upon the Board's request for a compliance audit.
- (4) Following every license renewal period, the Board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the practitioners required to take continuing education courses.

§ 185-10-4840. Restrictions.

- (1) An individual licensed, registered, or certified under these regulations may engage in the practice of addiction counseling.
- (2) A person who has received a certificate, registration or license under these regulations may use the title "Licensed Addiction Counselor", or "Licensed Master Addiction Counselor" in accordance with the type of certificate, registration or license possessed.
- (3) Unlicensed individuals may not:
 - (a) profess to be a licensed addiction professional;

- (b) use the title(s):
 - (i) "Licensed Addiction Counselor";
 - (ii) "Licensed Clinical Addiction Counselor";
 - (iii) "Licensed Clinical Addiction Therapist";
 - (iv) "Licensed Addiction Therapist";
 - (v) "Addiction Counselor";
 - (vi) "Addiction Therapist";
 - (vii) "Clinical Addiction Counselor";
 - (viii) "Clinical Addiction Therapist";
 - (ix) "Substance Abuse Counselor";
 - (x) "Substance Abuse Therapist";
 - (xi) "Clinical Substance Abuse Counselor";
 - (xii) "Clinical Substance Abuse Therapist"; or
 - (xiii) Any other title containing the words mentioned in (A) – (L).
- (c) use any other:
 - (i) words;
 - (ii) letters;
 - (iii) abbreviations; or
 - (iv) insignia; indicating or implying that the individual is a Licensed Addiction Counselor or Licensed Clinical Addiction Counselor; or
 - (v) practice as an addiction counselor or clinical addiction counselor for compensation, unless the individual is licensed under this article.

§ 185-10-4845. Privileged Communication.

Breach of a privileged communication, except as provided for in this Article is considered unprofessional conduct and grounds for revocation or suspension of a license.

§ 185-10-4850. Disciplinary Action

The Board shall have the power to impose administrative penalties and/or reprimands; revoke or suspend; refuse to issue, restore, or renew, the license of any person who is found to have violated one or more of the provisions enumerated in § 2224 of P.L. 15-105 and sections 185-10-901 through 185-10-1301.



Commonwealth Ports Authority

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PUBLIC NOTICE

Proposed Amendments to the Personnel Rules and Regulations of the Commonwealth Ports Authority

The Executive Director of the Commonwealth Ports Authority (“CPA”) hereby notifies the public that the Commonwealth Ports Authority intends to promulgate amendments to its Personnel Rules and Regulations.

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE PERSONNEL RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY: Notice is hereby given pursuant to 1 CMC § 9104(a) of the Administrative Procedure Act that the Commonwealth Ports Authority intends to promulgate the following additional section to its Personnel Rules and Regulations.

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED: These proposed regulations amend the Personnel Rules and Regulations of the Commonwealth Ports Authority to establish a new employee benefit entitled Self-Care Leave. The purpose of the benefit is to provide employees with leave specifically to manage work-related stress and to create a workforce with more satisfied employees and higher employee engagement. Employees will accrue 8 hours of Self-Care Leave per quarter. Any Self-Care Leave accrued expires at the end of the last day of the quarter that the Self-Care Leave was accrued. Self-Care Leave must be approved by an employee’s supervisor or manager prior to the employee going on Self-Care Leave. Self-Care Leave may be denied but denial must be for a good reason and may be a basis for an employee’s grievance. If an employee’s request to use Self-Care Leave is denied, the manager and employee shall coordinate together and identify the next possible available date that the Self-Care Leave may be used. Self-Care Leave is separate from and in addition to other CPA employee benefits, such as Annual Leave and Sick Leave. Employees are not entitled to payment for any unused Self-Care Leave.

AUTHORITY: The substance of the following proposed amendments, which implements the new Self-Care Leave benefit, was approved by the CPA Board of Directors at the September 17, 2021, CPA Board of Directors Meeting. These proposed amendments are for publication in the Commonwealth Register for Notice and Comment pursuant to the Administrative Procedure Act and for approval by the Attorney General pursuant to 1 CMC § 2153(e). The Commonwealth Ports Authority has the authority to promulgate these regulations pursuant to 2 CMC § 2122.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations, 1 CMC § 9102(a)(1), and posted in convenient places in the civic center and in local governments in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1).

TO PROVIDE COMMENTS: Persons or entities wishing to submit comments must do so in writing to Mr. Christopher S. Tenorio, Executive Director, CPA, by means of one of the following: Email, fax, mail or hand-delivery to the CPA Administrative Office located on the Second Floor of the Francisco C. Ada/Saipan International Airport with the subject line "**Comments on Proposed Personnel Rules and Regulations.**"

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
Fax: (670) 234-5962
Email: cpa.admin@pticom.com

All written comments shall be submitted within 30 days after publication of this notice.

Submitted by:



CHRISTOPHER S. TENORIO
Executive Director, CPA

9/30/21
Date

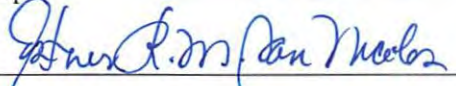
Received by:



MATHILDA ROSARIO
Special Assistant for Administration

10/07/21
Date

Filed and Recorded by:



Esther R.M. San Nicolas
Commonwealth Registrar

10.14.2021
Date

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


EDWARD MANIBUSAN
Attorney General

10/13/2021
Date



Commonwealth Ports Authority

Francisco C. Ada/Saipan International Airport
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NUTISIAN PUBLIKU

Manmaproponi na Amenda para i Areklamentu yan Regulasion Personnel gi Commonwealth Ports Authority

I Eksakatibun Direktot gi Commonwealth Ports Authority (i “CPA”) ha na’fanungu’ guini i publiku na i Commonwealth Ports Authority ha intensiona para u macho’gui i amenda siha gi iyon-ñiha Areklamentu yan Regulasion Personnel siha.

I AKSION NI MA’INTENSIONA PARA U ADAPTA ESTI I MANMAPROPONI NA AMENDA GI AREKLAMENTU YAN REGULASION PERSONNEL SIHA GI COMMONWEALTH PORTS AUTHORITY: Manmannã’i guini nutisia sigun para i 1 CMC § 9104(a) gi Åkton Administrative Procedure na i Commonwealth Ports Authority ha intensiona para u cho’gui i tinattiya na’hinalum mäs na seksiona gi iyon-ñiha Areklamentu yan Regulasion Personnel siha.

I TEMA, SUSTANSIA, YAN I DISKRIPSION I SUHETU NI MASUMARIA YAN ASUNTU NI TINEKKA: Esti i manmaproponi na regulasion ha amenda i Areklamentu yan Regulasion Personnel siha gi Commonwealth Ports Authority para u establese i nuebu na benifisiun impli’ão “entitled Self-Care Leave”. I rason i benifisiu sa’ para u pribeniyi i impli’ão siha “leave” espisifikã para u maneha “work-related stress” yan para u fa’tinas “workforce” ni mäs mansatifetchu na impli’ão siha yan tinakkilu’ na kumiti ginen i impli’ão siha. I impli’ão siha siempri marikohi 8 na oras “Self-Care Leave” kada “quarter”. Kuatkuet na rinikohin “Self-Care Leave” siempri mäkpu’ gi uttimu i “quarter” na diha nai i “Self-Care Leave” marikohi. I “Self-Care Leave” debi na u ma’aprueba ni manehãntin impli’ão antis di u usa i “Self-Care Leave”. I “Self-Care Leave” siña mayama lão debi na mãolik na rason yan siña mapega gi “grievance” impli’ão. Yanggin i rikuestan impli’ão para u usu i “Self-Care Leave” mayama, i manehãnti yan i impli’ão debi na u maplãnu ya u ma’aidentifika ottru pusipbli na fetcha guaha nai siña i “Self-Care Leave” ma’usa. I “Self-Care Leave” sepirã ginen yan i ottru mäs na benifisiun impli’ão CPA, tãtkomu “Annual Leave” yan “Sick Leave”. I impli’ão siha ti “entitled” para åpas para kuatkuet na ti ma’usa na “Self-Care Leave”.

ÅTURIDAT: I “substance” i mantinattiya na manmaproponi na amenda siha, ni umimplimenta i nuebu na benifisiun “Self-Care Leave”, ginen maninaprueba ni i Direktot Kuetspun CPA gi Septembri 17, 2021, gi Hentan Direktot Kuetspun CPA. Esti i manmaproponi na amenda siha para u fanmapupblika gi halum i Rehistran Commonwealth para Nutisia yan Upiñon sigun gi Åkton Administrative Procedure yan para inapruiban i Abugãdu Hinirãt para u macho’gui esti siha na regulasion sigun para 2 CMC § 2122.

DIREKSION PARA U MAPO’LU YAN MAPUPBLIKU: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona Manmaproponi yan Nuebu na Manma’adãpta na Regulasion siha, 1 CMC § 9102(a)(1), yan u mapega gi halum

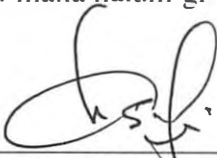
kumbinienti na lugât gi halum ufisinan gubietnamentu yan gi halum kada na distritun senadot, parehu Inglis yan i dos na lingguâhin natibu. I CMC § 9104(a)(1).

PARA U MAPRIBENIYI UPIÑON SIHA: I petsona pat i pattidâ siha ni manmalagu muna'halum upiñon debi di u macho'gui gi tinigi' para guatu as Siñot Christopher S. Tenorio, i Eksakatibun Direktot, CPA, gi unu na tinattiya na manera: Email, fax, mail o sino intrega hâlum gi Ufisinan Atministradot i CPA ni gaigi gi Sigundu na Bibienda gi plâsan Francisco C. Ada/Saipan International yan i suhetu na râya **"Upiñon put i Manmaproponi na Areklamentu yan Regulasion Personnel siha."**

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
Fax: (670) 234-5962
Email: cpa.admin@pticom.com

Todu i upiñon na tinigi' siha debi na u mana'hâlum gi halum 30 dihas dispues di pupublikasion nu esti na nutisia.

Nina'hâlum as:


CHRISTOPHER S. TENORIO
Eksakatibun Direktot, CPA

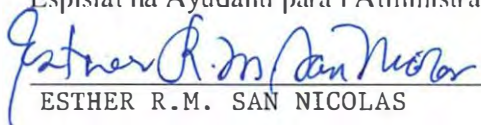
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Rinisibi as:


MATHILDA ROSARIO
Espisiât na Ayudanti para i Atministrasion

10/07/21
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Pine'lu yan Ninota as:


ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

10.14.2021
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Sigun i I CMC § 2153(e) yan i I CMC § 9104(a)(3) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligât ginin i Abugâdu Henerât CNMI yan debi na u mapupblika, I CMC § 2153(f).


EDWARD MANIBUSAN
Abugâdu Hinirât

10/13/2021
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Commonwealth Ports Authority

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ARONGORONGOL TOULAP

Ppwomwol Liiwel ngáli Alléghúl “Personnel” me Mwóghutughutúl Commonwealth Ports Authority

Executive Director-il Commonwealth Ports Authority (“CPA”) re arongaar toulap bwe Commonwealth Ports Authority re mángemángil rebwe aronga liiwel ngáli Alléghúl “Personnel” me Mwóghutughut.

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL LIIWEL NGÁLI ALLÉGHÚL “PERSONNEL” ME MWÓGHUTUGHUTÚL COMMONWEALTH PORTS AUTHORITY: E toowow arongorong yeel sáangi 1 CMC § 9104(a) reel Administrative Procedure Act bwe Commonwealth Ports Authority re mángemángil rebwe aronga táilil ikka re aschuulong ngáli Alléghúl “Personnel” me Mwóghutughutúl.

KKAPASAL, WEEWEL, ME ARONGORONGOL KKPASAL ME ÓUTOL: Ppwomwol mwóghutughut kkal ebwe liiweli Alléghúl “Personnel” me Mwóghutughutúl Commonwealth Ports Authority ebwe itittiw ffél “employee benefit entitles Self-Care”. Bwulul mille nge ebwe ayoora ngáli school angaang reel “leave” ebwe ffat bwe yááyál “to manage work-related stress” me ayoora leliyál angaang me essogh schóól angaang ikka re fisch me eyoor “higher employee engagement”. Schóól angaang rebwe bweibwogh waluuw (8) oorol “Self-Care Leave” ghal eluuw (3) maram ngáre “quarter”. “Self-Care Leave” iye re bweibwogh ebwe “expire” llól eluuw (3) maram wóól otimwool ráál igha e “accrue” “Self-Care Leave. Ebwe átirow “Self-Care Leave” sáangi aal “supervisor” ngáre manager-il school angaang mmwalil aal school angaang ebwe bwughi aal “Self-Care Leave”. Ressóbw ngaléégh ngáre “deny” li yóómw “Self-Care Leave” fengál bwe e ghatch bwulul me e lo ngáli aal school angaang “grievance”. Ngáre e tutto bwe school angaang e tingór ebwe yááyá aal “Self-Care Leave” nge re “deny” li, “manager” me school angaang rebwe mwóótiw me rebwe amwuri ileeta ngáre ráál iye e ghatch ebwe bwughi aal “Self-Care Leave” Eese schuu “Self-Care Leave” me akkááw “leave” aweey “CPA employee benefits”, aweey “Annual Leave” me “Sick Leave”. Essór aal weel school angaang reel rebwe óbwóssu reel “Self-Care Leave” iye ese yááyá.

BWÁNGIL: Autol ppwomwol liiwel ikka e amwirimwiritiw, iye e ayoorai mwóghutughut ngáli ffél “Self-Care Leave benefit”, e átirow sáangi CPA Board-il Directors igha re yéélágh wóól Maan 17, 2021, Ebwe akkatééwow ppwomwol liiwel kkal me llól Commonwealth Register ngáli Notice and Comment sáangi 1 CMC § 2153(e). Eyoor bwángil Commonwealth Ports Authority reel rebwe arongawow mwóghutughut kkal sáangi 2 CMC § 2122.

AFAL REEL AMMWELIL ME AKKAÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal me llól Commonwealth Register llól tálll Pommwol me Ffél Mwóghutughut ikka ra adóotááli, 1 CMC § 9102(a)(1), me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. 1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKPAS: Aramas ngáre schóó kka re tipáli rebwe isiisilong kkapas rebw ischi ngáli Mr. Christopher S. Tenorio, Executive Director, CPA, emmwelil ubwe yááyá ikka e amwirimwiritiw: Email, fax, mail ngáre bwughiló CPA Administrative Office iye e lo Second Floor reel Francisco C. Ada/Saipan International Airport fengál wóól subject line **“Comments on Proposed Personnel Rules and Regulations”**

Commonwealth Ports Authority
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Email: cpa.admin@pticom.com

Alongal ischil kkapas ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel.

Isáliyalong:


CHRISTOPHER S. TENORIO
Executive Director, CPA

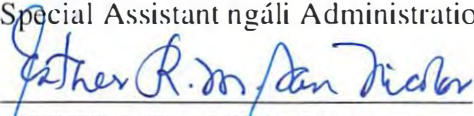
9/30/21
Ráál

Bwughiyal:


MATHILDA A. ROSARIO
Special Assistant ngáli Administration

10/07/21
Ráál

Ammwelil:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

10.14.2021
Ráál

Sángi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3) ra takkal amwuri fischiiy pommwol mwóghutughut kkal me ra átirowa me aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow. 1 CMC § 2153(f).


EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

10/13/2021
Ráál



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE CHCC CHARGEMASTER FOR VARIOUS NEW SERVICES

INTENDED ACTION TO ADOPT THESE PROPOSED REVISIONS TO THE RULES AND REGULATIONS: The Commonwealth Healthcare Corporation (CHCC) intends to adopt as permanent the attached additional Chargemaster pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The additional Chargemaster fees will become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Board of Trustees may prepare and adopt rules and regulations to assure delivery of quality health care and medical services and the financial viability of the Corporation that will best promote and serve its purposes. 3 CMC Section 2826(c).

THE TERMS AND SUBSTANCE: New fees that have arisen for Lab Testing, Radiology, COVID-19 Third Dose, OR, and Sleep Study fees.

THE SUBJECTS AND ISSUES INVOLVED: Lab Testing, Radiology, COVID-19 Third Dose, OR, and Sleep Study fees.

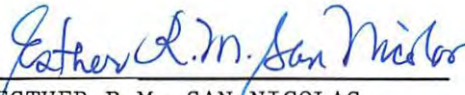
DIRECTIONS FOR FILING AND PUBLICATION: This Notice of Proposed Amendments to the Chargemaster shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular and will be codified at NMIAC Sections 140-10.8-101. (1 CMC § 9104(a)(1)). Copies are available upon request from Tiffany Sablan, Director of Revenue.

TO PROVIDE COMMENTS: Send or deliver your comments to Tiffany Sablan, Director of Revenue, tiffany.sablan@dph.gov.mp, Attn: *Amendments to the Chargemaster for various new fees* at the above address, fax or email address, with the subject line "Amendments to the Chargemaster: "Lab Testing, Radiology, COVID-19 Third Dose, OR, and Sleep Study fees." Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

These proposed amendments to the Chargemaster: New Mammography Fees, COVID-19 Booster Vaccinations, Sleep Study Fees were approved by the CHCC Board of Trustees and the CHCC CEO.

Submitted by:	 ESTHER MUNA Chief Executive Officer	<u>10/07/21</u> Date
	 LAURI OGUMORO Chairman, Board of Trustees	<u>10/07/2021</u> Date
	 MATHILDA A. ROSARIO Special Assistant, Administration	<u>10/08/21</u> Date

Filed and Recorded by:	 ESTHER R.M. SAN NICOLAS Commonwealth Registrar	<u>10.14.2021</u> Date
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Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 12th day of Oct., 2021.


EDWARD E. MANIBUSAN
Attorney General

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Fee Edits - as of September 08, 2021

CPT	MOD	Description	Reason for change	New Price
87507		IADNA-DNA/RNA GI PTHGN MULTIPLEX PROBE TQ 12-25	NEW	\$ 1,250.34
77062		DIGITAL BREASTTOMOSYNTHESIS BILATERAL	NEW	\$ 87.33
77063		SCREENING DIGITAL BREAST TOMOSYNTHESIS BI	NEW	\$ 87.33
77063	26	SCREENING DIGITAL BREAST TOMOSYNTHESIS BI	NEW	\$ 106.47
47542	26	BALLOON DILAT BILIARY DUCT/AMPULLA PRQ EACH DUCT	NEW	\$ 559.58
47544	26	REMOVAL BILIARY DUCT &/GLBLDR CALCULI PERQ RS&I	NEW	\$ 642.99
35800	26	EXPL PO HEMRRG THROMBOSIS/INFCTJ NCK	NEW	\$ 2,588.70
62324	26	NJX DX/THER SBST INTRLMNR CRV/THRC W/O IMG GDN	NEW	\$ 597.24
62325	26	NJX DX/THER SBST INTRLMNR CRV/THRC W/IMG GDN	NEW	\$ 764.18
62326	26	NJX DX/THER SBST INTRLMNR LMBR/SAC W/O IMG GDN	NEW	\$ 585.99
62327	26	NJX DX/THER SBST INTRLMNR LMBR/SAC W/IMG GDN	NEW	\$ 777.74
0003A		ADM SARSCOV2 30MCG/0.3ML 3RD	NEW	\$ 85.17
0013A		ADM SARSCOV2 100MCG/0.5ML 3RD	NEW	\$ 85.17
M0201		COVID-19 VACCINE HOME ADMIN	NEW	\$ 106.50
95800	TC	SLP STDY UNATND W/HRT RATE/O2 SAT/RESP/SLP TIME	NEW	\$ 418.65
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95801	TC	SLP STDY UNATND W/MIN HRT RATE/O2 SAT/RESP ANAL	NEW	\$ 335.85
95810	TC	POLYSOM 6/> YRS 4/> PARAM	NEW	\$ 2,759.46
95811	TC	POLYSOM 6/>YRS CPAP 4/> PARM	NEW	\$ 2,759.46
95801	26	SLP STDY UNATND W/MIN HRT RATE/O2 SAT/RESP ANAL	NEW	\$ 224.25
95806	26	SLEEP STD AIRFLOW HRT RATE&O2 SAT EFFORT UNATT	NEW	\$ 493.65
95808	26	POLYSOM ANY AGE 1-3> PARAM	NEW	\$ 348.63
95810	26	POLYSOM 6/> YRS 4/> PARAM	NEW	\$ 508.74
95811	26	POLYSOM 6/>YRS CPAP 4/> PARM	NEW	\$ 525.03
G0400		HOME SLEEP TEST/TYPE 4 PORTA	NEW	\$ 793.35



Commonwealth Healthcare Corporation

Commonwealth Gi Sangkattan Na Islas Mariãnas

I Lower Navy Hill Road Navy Hill, Saipan, MP 96950



NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AMENDA SIHA GI CHARGEMASTER PARA I MANNUEBU NA DIFIRENTIS SITBISIU SIHA

I AKSION NI MA'INTENSIONA PARA U ADÂPTA ESTI I MANMAPROPONI NA TINILAICA GI AREKLAMENTU YAN REGULASION SIHA: I Commonwealth Healthcare Corporation (i CHCC) ha intensiona para u adâpta komu petmanienti i mañechettun na hina'halum gi Chargemaster sigun gi maneran i Âkton Administrative Procedure, 1 CMC § 9104(a). I hina'halum âpas Chargemaster siempri umifektibu gi halum 10 dihas dispues di adaptasion yan publikasion gi halum i Rehistran Commonwealth. (1 CMC § 9105(b))

ATURIDÂT: I Board of Trustees siña mapripâra yan adâpta i areklamentu yan regulasion siha para u mana'garantiha na manmannânâ'i kuâlidât na inadahin hinemlu' yan sitbisiun mediku yan i macho'cho'chu' na fainansiât ni mäs ha na'adilantão yan sietbi i rason-ñiha.

I TEMA YAN SUSTÂNSIAN I PALÂBRA SIHA: I mannuebu na âpas nai manannuk para i "Lab Testing, Radiology, COVID-19 Mina'tres Na Inãmti, OR," yan âpas Istudiun Maigu' siha.

DIREKSION PARA U MAPO'LU YAN PARA U MAPUPBLIKA: Esti na Nutisia put i Manmaproponi na Amenda siha gi Chargemaster debi na u mapupblika gi halum i Rehistran Commonwealth gi halum seksiona nu manmaproponi yan nuebu na manma'adâpta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi halum kumbinienti na lugât gi halum civic center yan gi halum ufisinan gubietnamentu gi kada distritun sendadot, parehu gi finu' Inglis yan i prinsipât na linguâhin natibu (1 CMC § 9104(a)(1)). Guaha kopia siña marikuesta ginen as Tiffany Sablan, i Direktot Revenue.

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hânão pat intrega hálum i upiñom-mu guatu as Tiffany Sablan, i Direktot Revenue, tiffany.sablan@dph.gov.mp, Attn: *I Manma'amenda siha gi Chargemaster para mannuebu na difirentis sitbisiu siha gi sanhilu' na address, fax pat i email address, yan i suhetu na rãya "Amenda para i Chargemaster: Lab Testing, Radiology, COVID-19 Mina'tres Na Inãmti, OR, yan âpas Istudiun Maigu' siha."* I upiñon siha debi na u fanhálum gi halum trenta (30) dihas ginen i fetchan nu publikasion esti na nutisia. Put fabot na'hálum i infotmasion, upiñon pat testimonion kinentrãm-mu siha. (1 CMC § 9104(a)(2)).

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Esti i manmaproponi na amenda siha gi Chargemaster: Nuebu na Âpas Mammography, COVID-19 Booster Vaccinations, yan i Âpas Istudion Maigu' maninaprueba ginen i CHCC Board of Trustees yan i CHCC CEO.

Nina'hålum as: 
ESTHER MUNA, CEO

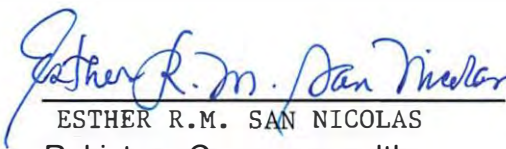
10/07/21
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LAURI OGUMORO,
Kabesiyun Kuetpu

10/07/2021
Fetcha

Rinisibi as: 
MATHILDA A. ROSARIO
Ispisiât na Ayudânti para i Administration

10/08/21
Fetcha

Pine'lu yan
Ninota as: 
ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

10.14.2021
Fetcha

Sigun i 1 CMC § 2153 (e), (Inaprueban Abugâdu Hinirât i regulasion siha ni para u macho'gui kumu fotma) yan i 1 CMC § 9104 (a) (3) (inahentan inaprueban Abugâdu Hinirât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient i ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika, 1 CMC § 2153 (f) (pubplikasion areklamentu yan regulasion siha).

Mafetcha gi diha 12th gi Oct., 2021.


EDWARD E. MANIBUSAN
Abugâdu Hinirât

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Fee Edits - as of September 08, 2021

CPT	MOD	Description	Reason for change	New Price
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35800	26	EXPL PO HEMRRG THROMBOSIS/INFCTJ NCK	NEW	\$ 2,588.70
62324	26	NJX DX/THER SBST INTRLMNR CRV/THRC W/O IMG GDN	NEW	\$ 597.24
62325	26	NJX DX/THER SBST INTRLMNR CRV/THRC W/IMG GDN	NEW	\$ 764.18
62326	26	NJX DX/THER SBST INTRLMNR LMBR/SAC W/O IMG GDN	NEW	\$ 585.99
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M0201		COVID-19 VACCINE HOME ADMIN	NEW	\$ 106.50
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95810	26	POLYSOM 6/>YRS 4/> PARAM	NEW	\$ 508.74
95811	26	POLYSOM 6/>YRS CPAP 4/> PARM	NEW	\$ 525.03
G0400		HOME SLEEP TEST/TYPE 4 PORTA	NEW	\$ 793.35

Ppwomwol liiwel ngáli Chargemaster: Ra átirowa “New Mammography Fees”, “COVID-19 Booster Vaccinations”, “Sleep Study Fees” sáangi CHCC Board-il Trustees me CHCC CEO.

Isáliyalong: 
ESTHER MUNA, CEO

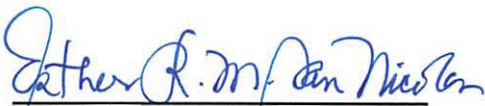
10/07/21
Ráál


LAURI OGUMORO, BOARD CHAIR

10/07/2021
Ráál

Bwughiyal: 
MATHILDA A. ROSARIO
Special Assistant Administration

10/08/21
Ráál

Ammwelil: 
ESTHER R.M. SAN NICOLAS
Commonwealth Register

10.14.2021
Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG bwe aa llégheló reel fféerúl bwe ebwe arongowow) me 1 CMC § 9104(a)(3) sáangi átirowal AG) reel ppwomwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me átirow bwe aa llégheló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).


EDWARD E. MANIBUSAN
Soulemelemil Allégh Lapalap

12th October, 2021



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRB SAIPAN, MP 96950

TEL.: (670) 664-1100 FAX: (670) 664-1115

Public Notice of Proposed Amendments to the Regulations for the

Department of Finance, Division Revenue and Taxation,

Revenue and Taxation Regulations

Notice of Intended Action: The Department of Finance, Division Revenue and Taxation approved the publication of the following amendments to its Revenue and Taxation Regulations. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

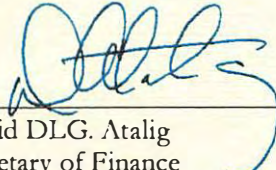
Authority: These amendments are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 and 4 CMC § 1820.

Terms and Substance: The purpose of the amendments to Revenue and Taxation Regulations Chapter 70-40.6 is to prescribe needful rules and procedures to carry out the intent and purpose of the laws of the Commonwealth of the Northern Mariana Islands administered by the Division of Revenue and Taxation.

Directions for Filing and Publication: These proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

Comments: Interested parties may submit written comments on the proposed regulations to David Dlg. Atalig, Secretary of Finance, via U.S. mail to the Department of Finance, P.O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, or via hand delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by:


David DLG. Atalig
Secretary of Finance

Date: 10/20/2021

Fee Edits - as of September 08, 2021

CPT	MOD	Description	Reason for change	New Price
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95811	26	POLYSOM 6/>YRS CPAP 4/> PARM	NEW	\$ 525.03
G0400		HOME SLEEP TEST/TYPE 4 PORTA	NEW	\$ 793.35

Received by: _____

Mathilda A. Rosario
Special Assistant for Administration

Date: 10/21/21

Filed and Recorded by: _____

Francisco
ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

Date: 10.25.2021

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.

Edward Manibusan

Edward Manibusan
Attorney General

Date: 10/25/2021



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRB SAIPAN, MP 96950

TEL.: (670) 664-1100 FAX: (670) 664-1115

**Nutisian Ppubliku Ni Manmaproponi Na Regulasion Siha Para I
Dipåttamentun I Finansiat, Dibision I Ápas Kontribusion**

NUTISIA PUT I AKSION NI MA'INTENSIONA: I Dipåttamentun i Finansiat, Dibision i Ápas Kontribusion ma'apueba i publikasion i tinattiyi na amendasion siha para iyon-niha Regulasion Ápas Kontribusion. Ma'intensiona para u ma'adapta esti siha na regulasion kumu petmanienti, sigun para i Áktun Administrative Procedures, 1 CMC § 9104(a). Kumu ma'adapta, esti siha na regulasion siempre mu ifektibu gi hálum dies (10) dihas dispues di publikasion nu i Nutisian i Adáptasion gi hálum i Rehistran Commonwealth. (1 CMC § 9105(b))

ÁTURIDÁT: Esti na amendasion siha manmaho'gui gi pápa' i aturidát ni mapega mo'na gi hálum i Commonwealth Code kuntodu, láo ti chi-ña para, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 yan 4 CMC § 1820.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I intensiona i amendasion siha para Regulasion i Ápas Kontribusion Pátti 70-40.6 para u ma'estaplesi i nisisidát na areklamentu yan manera siha ni para u kátga huyong i ma'intensiona yan puntu i lai siha giya Commonwealth gi Sangkattan na Islas Mariánas ni magubiebieta ni Dibision i Ápas Kontribusion.

DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA: Esti i manmaproponi na amendasion siha debi na u mapupblika gi hálum i Rehistran Commonwealth gi hálum i seksiona ni maproponi yan ñuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hálum i kumbinienti na lugát gi hálum civic center yan gi hálum ufisinan gubietnamentu siha gi hálum distritun senadot, parehu Englis yan gi lingguáhin natibu (1 CMC § 9104(a)(1)).

UPIÑON SIHA: I manintirisáo na petsona siha siña manna'hálum tinigin upiñon ni manmaproponi na regulasion siha para guatu as, David DLG. Atalig, Sekretariun Finansiat via U.S. mail para Dipåttamentun i Finansiat, P.O. Box 5234 CHRB, Dandan Commercial Center, Saipan, MP 96950, pat intrega hálum gi Ufisinan i Sekretarian Finansiat, Capitol Hill, Saipan, MP. I upiñon, data, views, pat agumentu siha nisisita u fanhálum gi hálum trenta (30) dihas ginin i fetcha publikasion esti na nutisia. 1 CMC 9104(a)(2).

Nina'hálum as:


David DLG. Atalig
Sekretariun Finansiat

10/20/2021

Fetcha

Rinisibi as:


Mathilda A. Rosario
Ispisiât Na Ayudânti Para Atministrasion

10/21/21

Fetcha

Pine'lu yan
Ninota as:


ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

10.25. 2021

Fetcha

Hu settifikao, sigun para 1 CMC § 2153(e) yan 1 CMC 9104(a)(3), na hu ribisa yan aprueba esti regulasion siha kumu para fotma yan ligât na sufisienti.


Edward Manibusan
Abugâdu Henerât

Fetcha:

10/25/2021



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRB SAIPAN, MP 96950

TEL.: (670) 664-1100 FAX: (670) 664-1115

Arongorongoul Toulap reel Pommwol Liiwel ngáli Mwóghutughutúl

Depattamentool Finance, Division Revenue me Taxation

Arongorong reel Mángemángil Mwóghut: Depattamentool Finance, Division Revenue me Taxation re átirow reel akkatééwowul liiwel kka e amwirimwiritiwi ngáli Mwóghutughutúl Revenue me Taxation. Re mánagemángil rebwe adóptáali mwóghutughut kka bwe ebwe lléghló, sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptáali, ebwe bwunguló liiwel kkal llól seigh (10) ráal mwiril aal akkatééwow arongorong yeel me llól Commonwealth Register. 1 CMC § 9105(b).

Bwángil: Liiwel kkal nge aa ffil reel fféerúl faal bwángil iye ebwe mmweteló mmwal llól Commonwealth Code ebwe bwal schuulong, nge ese yoor pilil ngáli, 1 CMC § 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 me 4 CMC § 1820.

Kkapsal me Aweewel: Bwulul liiwel ngáli Mwóghutughutúl Revenue me Taxation Chapter 70-40.6 nge ebwe itittiwi afal me mwóghut ngáli peiráágh me rebwe ayoora bwe ebwe weeweló enforcement reel alléghúl Commonwealth me Téel Falúw kka Efáng llól Marianas iye Division-il Revenue me Taxation re lemeli.

Afal reel Ammwelil me Akkatééwowul: Pommwol liiwel kkal nge ebwe akkatééwow me llól Commonwealth Register llól táilil pommwol me ffél mwóghutughut kka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me llól gobetnamento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

Fóós: Schóo kka re mwuschel isiisilong iischil mánagemáng wóól pommwol mwóghutughut kkal rebwe iisch ngáli David DLG. Atalig, Sekkretóoriyal Finance, via U.S. mail ngáli Depattamentool Finance, P. O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, ngáre bwughiló reel Bwulasiyol Sekkretóoriyal Finance, Asúngúl, Seipél, MP. Isiisilongol mánagemáng, data, views, ngáre angiingi ebwe toolong llól eliigh (30) ráal mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong: _____

David DLG. Atalig
Sekkretóoriyal Finance

Ráal: _____10/20/21_____

Bwughiyal: _____

Mathilda A. Rosario
Special Assistant ngáli Administration

Ráal: _____10/20/21_____

Ammwelil:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

Ráál: 10.25.2021

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC §9104(a)(3), bwe I ya takkal amwuri fischiiy me aa átirow mwóghutughut kkal bwe aa ffil reel fféerúl me legal sufficiency.



Edward Manibusan
Soulemelemil Allégh Lapalap

Ráál: 10/25/2021

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Part 001 - General Provisions

§ 70-40.6-001 Authority

The authority for the promulgation and issuance of Revenue and Taxation Regulations 70-40.6 No. 2200, codified in this subchapter, is by virtue of the authority and directions set forth in the Commonwealth code including, but not limited to, 1 CMC § 2553, 1 CMC § 2557, 4 CMC § 1104 ~~{1999}~~, 4 CMC § 1701(c), and 4 CMC § ~~1818~~ 1820 ~~{1999}~~.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: PL 14-35 (effective Oct. 12, 2004) repealed and reenacted 4 CMC §§ 1103-1106, 4 CMC division I, chapter 8 and 4 CMC division I, chapter 9. PL 14-35 § 4 (§ 1820), to be codified at 4 CMC § 1820, grants the Secretary of Finance authority to prescribe adopt regulations issued under the U.S. Internal Revenue Code necessary for the proper administration and enforcement of Commonwealth tax laws. PL 14-35 § 4 (§ 2001), to be codified at 4 CMC § 1901, grants the Secretary of Finance broad authority to prescribe necessary rules and regulations to implement the CNMI tax laws.

§ 70-40.6-005 Purpose and Scope

The purpose of the regulations in this subchapter is to establish policy and procedures to implement and provide uniform enforcement of the tax laws of the Commonwealth of the Northern Mariana Islands and other laws delegated to and administered by the Department of Finance, Secretary of Finance, and ~~by~~ the Division of Revenue and Taxation. Unless specifically provided otherwise, these regulations apply to 4 CMC, division 1 except chapter 4 and chapter 10.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-010 Organization

The Division of Revenue and Taxation, a division of the Department of Finance established pursuant to 1 CMC § ~~2557~~2571, shall be headed by a Director. The Director shall be responsible for the day to day operations of the Division of Revenue and Taxation. In order to carry out its responsibilities, the Division of Revenue and Taxation hereby establishes the following activity branches:

(a) Technical Research and Appeals Branch. The Technical Research and Appeals Branch shall be headed by a manager and is responsible for:

- (1) The administrative appeal system;
- (2) Research, review and support service;
- (3) Technical resource and library service;
- ~~(4) Review;~~
- ~~(4) (5)~~ Disclosure;
- ~~(5) (6)~~ Special procedures.

(b) Compliance Branch. The Compliance Branch shall be headed by a manager and is responsible for:

- (1) Taxpayer assistance service;
- ~~(2) Tax return examinations;~~
- ~~(2) (3)~~ Taxpayer compliance program;
- ~~(3) (4)~~ Data entry;
- ~~(4) (5)~~ File maintenance;
- ~~(5) (6)~~ Returns processing.

(c) Collection and Remittance Branch. The Collection and Remittance Branch shall be headed by a manager and is responsible for:

- (1) Accounts billing;
- (2) Field collection;
- (3) Cashier function.

(d) Examination Branch. The Examination Branch shall be headed by a manager and is responsible for:

- (1) Review of tax returns and tax return examination;
- (2) Desk audits;
- (3) Field audits;
- (4) Special audits.

(e) Enforcement and Regulatory Branch. The Enforcement and Regulatory Branch shall be headed by a manager and is responsible for:

- (1) Enforcement and Regulatory Section
 - (i) Poker machines;
 - (ii) Pachinko slot machines;

- (iii) Amusement machines; and
- (iv) Cash receipt investigations, enforcement, and compliance.
- (2) Business License Section
- (i) Issuing licenses to businesses;
- (ii) Suspending, revoking, or denying issuance of business licenses; and
- (iii) Business license investigations, enforcement, and compliance.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-015 Function

The Division of Revenue and Taxation shall administer and enforce all provisions of title 4, division 1 of the Commonwealth code (except those provisions specifically delegated to other agencies, e.g., the Division of Customs), the United States Internal Revenue Code of 1954 as specified in 4 CMC § 1702, as amended, and its accompanying regulations as made applicable to the Commonwealth of the Northern Mariana Islands pursuant to § 601 of the Covenant, and these and other regulations delegated to the Division of Revenue and Taxation.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-020 Rota and Tinian District Offices

The Division of Revenue and Taxation shall have district offices in Rota and Tinian for its activities in these senatorial districts. The functions of the district operations shall be under the supervision of the Secretary of Finance or his/her designee. Personnel supervision of the district offices shall be under each respective Resident Director of Finance.

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-025 Regulations Superseded

(a) Revenue and Taxation Regulations 70-40.6 No. 2200, codified in this subchapter, supersede all rules and regulations issued by the CNMI Department of Finance and/or the CNMI Division of Revenue and Taxation which were published prior to the adoption of Revenue and Taxation Regulations 70-40.6 No. 2200 which pertain to taxes, fees, or other laws administered by the Division of Revenue and Taxation, including those rules and regulations issued under Revenue and Taxation Regulations No. 2200, Revenue and Taxation Regulations No. 1200, Revenue and Taxation Regulations No. 8301 and all amendments thereto.

(b) Revenue and Taxation Regulations 70-40.6 No. 2200, codified in this subchapter, do not supersede any rules or regulations proposed or adopted by the Department of Finance pertaining to the operation of pachinko slot machines in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: In subsection (a), the Commission changed “supersedes” to “supersede” to correct a manifest error.

§ 70-40.6-030 Definitions

(a) ~~“Business”: The term “business” shall have the same meaning as a “trade or business” as that term is applied under § 162 of the Northern Marianas Territorial Income Tax; thus, “business” normally means any regular and continuous activity carried on by a person for the purpose of earning income or profit. Except as otherwise provided, an employee shall not be considered as operating a business, and a partnership or a corporation shall be considered as operating a business.~~

(b) “Calendar month”: The period extending from the date in one month to the same date in the succeeding month.

(c) ~~“CNMI real property interest”: A “CNMI real property interest” means any “interest (other than as a creditor) in real property” located within the CNMI. An “interest in real property” includes a fee simple estate, estate for life, a long-term lease including an option to acquire the same, or any interest defined in § 897(c)(1)(A)(ii) of the NMTIT;~~

(d) “Director”: The Director of the Division of Revenue and Taxation, unless the context otherwise requires. Any references to the term “chief” as used within this subchapter or the tax laws is-are deemed to refer to the Director of the Division of Revenue and Taxation.

(e) ~~“Division”: “Division” means those provisions of title 4 of the Commonwealth code in division 1 but excluding chapter 10, developer infrastructure tax.~~

(f) ~~“Employee”: Any individual, who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee. Such term shall not include an individual who performs services as either a sole proprietor to himself/herself or a partner to his/her partnership.~~

(g) ~~“Employer”: The person for whom an employee performs or performed any service of whatever nature.~~

(h) “Gross revenue”: “Gross revenue” is defined by 4 CMC § 1103(j) ~~1103(k)~~ and § 70-40.6-301 of this subchapter.

(i) ~~“Gross winnings”: “Gross winnings” means the total amount of money or the value of other property received from each gaming, lottery, raffle, or other gambling event, transaction, or~~

other activity, less the amount of the wager, if any, (but no other cost or expense) which directly results in winnings.

(j) “Individual”: “Individual” is defined in 4 CMC §1103(m). The term also includes ~~Unless otherwise provided, a natural person, an estate (including a any bankruptcy estate established under title 11 of the United States Code), a trust, or a fiduciary acting for a natural person, trust, or estate.~~

(k) “Last known address”: “Last known address” has the same meaning as that term is used within § 6212 of the NMTIT.

(l) “Manufacturer” “Manufacturing”: The art of making raw material into a product suitable for use, sale, lease, or rental, and includes the technique and methods of converting finished merchandise into another product for use, sale, lease, or rental. “Manufacturer” is defined in 4 CMC §1103(q). The term “industrial machines” as used in 1103(q) shall include any machine, equipment, or apparatus suitable for substantially transforming raw or finished materials into a product possessing a new name, nature and adapted to a new use.

(m) “Northern Marianas Territorial Income Tax”: Mirrored tax provisions of the U.S. Internal Revenue Code applicable in the CNMI as provided in the Covenant and chapter 7 of 4 CMC, division 1 and as further detailed within § 70-40.6-625 of this subchapter. The Northern Marianas Territorial Income Tax is abbreviated as the NMTIT.

(n) “Person”: ~~Means a~~Any individual, firm, corporation, company, joint venture, association, partnership, receiver, club, syndicate, cooperative association, or any other entity.

(o) “Property”: Any interest in real property, tangible personal property, or intangible personal property. Intangible personal property includes licenses, franchises, patents, trademarks, copyrights, stocks, bonds, or other commercial paper and partnership interests.

~~(p) “Raw material”: An article or merchandise that is changed in form or substance or combined with other article(s) in a manufacturing process to become a part of a finished product or to form a new product which is produced in a factory.~~

(q) “Rebate”: For purposes of 4 CMC, division 1, chapter 7, “rebate” as defined by 4 CMC § 1103(s) only includes ~~only~~ amounts of NMTIT actually paid.

(r) “Resident”: For purposes other than the NMTIT and chapter 7, means:

(1) An individual who is domiciled in the Commonwealth; or

(2) A business or other entity which is located, directed, or managed in the Commonwealth.

(s) “Secretary”: The Secretary of the Department of Finance of the Commonwealth government of the Northern Mariana Islands.

(t) “Wages and salaries”: “Wages and salaries” ~~means that~~ is defined by ~~§ 70-40.6-101 of this subchapter and 4 CMC § 1103~~(dd)(z). and § 70-40.6-101 of this subchapter.

(u) “Wholesaler”: Any person engaged in the sale of tangible personal property to another for resale for direct or indirect economic benefit.

(v) “Yearly”: A calendar year.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The 1996 amendments amended subsection (r)(2). The Commission placed quotation marks around terms defined.

§ 70-40.6-035 Other Definitions

(a) “Hotel, lodging house, or similar facility”: “Hotel, lodging house, or similar facility” shall include any hotel, lodging house, motel, resort motel, apartment, apartment motel, rooming house, condominium, private home, lodging house, living quarters or mobile home that has been rented, leased or let for consideration to transient occupants, as defined in 4 CMC § 1103(cc).

(b) Net gaming revenue taxable income”: ~~Net gaming revenue taxable income means the t~~ Taxable income as defined in the NMTIT attributed to the revenue and expenses derived from gaming activity.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The June 1995 notice of adoption added subsection (a). The Commission created the section title. The Commission placed quotation marks around terms defined.

§ 70-40.6-040 PL 10-73 Educational Tax Credit

In General. 4 CMC §§ 1205(a) and 1306(a) provide that a person may take, ~~as provided in PL 10-73~~, cash contributions that are made during a tax year to qualifying educational institutions as a nonrefundable credit against the tax imposed by §§ 1201, 1202, and 1301 through 1304.

(a) Definitions.

(1) Cash contributions. ~~For a contribution to~~ To qualify as a “cash contribution” as used in 4 CMC § 1205(a) and 4 CMC § 1306(a), the contribution must:

(i) Not have been paid for or in lieu of tuition or fees charged by the educational institution;

(ii) Not have been paid for or in lieu of books, computers, supplies, or other items used in attending the educational institution;

(iii) Have been a “gift,” ~~within the general legal concepts defining a gift for tax purposes as defined under the NMTIT and common law~~;

(iv) Have been paid in cash, by check, or by credit card;

(v) Not have been given to the educational institution in exchange for anything of value. For example, a cash contribution would exclude money given for a raffle ticket; and

(vi) Not be given to the institution with instructions to be applied to a particular expenditure. The institution must have full discretion as to what expenditure to apply the contribution to.

(2) Educational institution. The term “educational institution” as used in 4 CMC § 1205(c)(3) and incorporated in 4 CMC § 1306(c) shall have the same meaning as “educational organization” under § 170(b)(1)(A)(ii) of the U.S. Internal Revenue Code as applied in the CNMI under § 170 of the Northern Marianas Territorial Income Tax (NMTIT). Subject to all other requirements of the NMTIT’s definition of “educational organization,” an “educational institution” under for the purposes of the CNMI educational tax credit is generally one whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. An “education institution” includes only the CNMI Public School System, the Northern Marianas College, organizations identified in 4 CMC § 1205, and those organizations granted exempt status by the CNMI Division of Revenue and Taxation as an “educational organization” ~~or “educational institution”~~ under the NMTIT, the BGRT, or the ET; pursuant to ~~under~~ the procedures specified in part 400, [entitled] Tax Exempt Organizations, of ~~Rev. and Tax.~~ Revenue and Taxation Regulations 70-40.6 ~~No. 2200~~, codified in this subchapter.

(3) Letter of determination. The term “letter of determination” as used in 4 CMC § 1205(c)(3) and incorporated in § 1306(c) means the determination letter issued by the CNMI Division of Revenue and Taxation granting an organization exempt status as an ~~“educational institution” or~~ “educational organization” under § 501(c)(3) and § 170(b)(1)(A)(ii) of the U.S. Internal Revenue Code as applied in the CNMI under § 501(c)(3) of the NMTIT ~~and as applied for determining an~~ “educational organization’s” ~~or “institution’s”~~ exempt status under the NMTIT, BGRT, and ET provisions.

(b) Documentation Required.

(1) Scope. Under 4 CMC §§ 1205(d) and 1306(d), a taxpayer must furnish the following to obtain the educational tax credit:

(i) A properly documented receipt issued by the recipient institution which must include, at a minimum, the name and tax identification number of the institution, the taxpayer’s name and tax identification number, the date of payment and the amount paid, and the purpose of the donation; and

(ii) A copy of the letter of determination with respect to the exempt status of the recipient institution.

~~(2) Specific Documentation Required. For each cash contribution regardless of amount, taxpayers are not required to submit the information specified in 4 CMC §§ 1205(d) and 1306(d) and subsection (b)(1) of this section. Instead, taxpayers are required to:~~

~~(i) Maintain, for a period of no less than six years;~~

~~(A) A written receipt from the educational institution that must include the following information:~~

~~(I) The educational institution’s name and tax identification number;~~

~~(II) The taxpayer’s name and tax identification number;~~

~~(III) The date the contribution was paid to the institution;~~

~~(IV) The amount of cash contributed;~~

- (V) ~~The purpose of the contribution; and~~
(VI) ~~Whether the institution gave the taxpayer any goods or services as a result of the contribution; and if so, a description and good faith estimate of the value of any goods or services provided.~~
(B) ~~A copy of the letter of determination with respect to the tax exempt status of the recipient institution, if the recipient organization is other than the Public School System or the Northern Marianas College; and~~
(ii) ~~Submit information in a form or schedule as prescribed by the Secretary.~~
(32) Failure to Comply. No educational tax credit will be allowed under 4 CMC §§ 1205(d) or 1306(d) unless the taxpayer complies with all the applicable provisions of this subsection.

(c) Penalties and Interest.

(1) Payment of Penalties and Interest. Educational tax credits may not be used to satisfy balances attributable to penalties and/or interest.

(2) Accrual of Penalties and Interest. Educational tax credits may not be used to satisfy outstanding tax balances due for previous months or quarters. Thus, penalties and interest associated with underpayments for these months or periods will continue to accrue until all outstanding balances are paid.

(ed) Educational Tax Credit - Allowable Amount Applied Only Against BGRT (with Allocation Rules).

(1) General Rule. A taxpayer can claim an educational tax credit for contributions made in that month up to the lesser of (a) \$5,000 or (b) \$5,000 less any allowable credit claimed in prior months in the same taxable year. The calculated allowable credit can be applied entirely to the month during which the contribution was made or can be allocated over remaining months, if any, of the taxable year; the credit cannot be allocated to previous quarters months in the same taxable year (instead, the credit will be allowed on the taxpayer's final BGRT return for that year, generally the December monthly return).

~~\$5,000 or More Quarterly BGRT Liability. If a person's BGRT liability for any quarter is \$5,000 or more, the person can claim an educational tax credit for contributions made in that quarter up to the lesser of (a) \$5,000 or (b) \$5,000 less any allowable credit claimed in prior quarters in the same taxable year. The calculated allowable credit can be applied entirely to the quarter during which the contribution was made or can be allocated over remaining quarters, if any, in the remaining taxable year; the credit cannot be allocated to previous quarters in the same taxable year (instead, the credit will be adjusted on the person's final BGRT return for that year).~~

(i) Example No. 1. If a person's ~~taxpayer's~~ BGRT liability for the first ~~quarter~~ month is \$8,000 and the ~~person~~ taxpayer makes a \$5,000 charitable contribution to a qualifying educational institution during the first ~~quarter~~ month, the ~~person~~ taxpayer can claim a \$5,000 educational tax credit during the first ~~quarter~~ month to offset the \$8,000 BGRT liability.

(ii) Example No. 2. If a person makes a \$5,000 charitable contribution to a qualifying educational institution during the first quarter has a \$2,000 BGRT liability for the first quarter has a \$3,000 BGRT liability for the second quarter and has claimed a \$2,000 educational tax credit for the first quarter, the person can claim a \$3,000 of credit during the second quarter to offset the second quarter liability.

(iii) — Example No. 3. Assume the same facts as example no. 2, except that the person has only a \$500 tax liability in the second quarter. Under this scenario, the person can claim only a \$500 credit during the second quarter to offset the second quarter liability, provided that the maximum remaining credit shall be the lesser of \$2,500 or the BGRT for the final two quarters.

(iv) — Example No. 4. If a person has a \$5,000 BGRT liability for the first, second and third quarters of a taxable year, has a zero liability for the fourth quarter, and makes a \$5,000 cash contribution to a qualifying educational institution during the fourth quarter, the person would not allocate the educational tax credit to prior quarters; instead the person's fourth quarter BGRT return will be adjusted on the forms prescribed by the Secretary.

(2) — Quarterly BGRT Less than \$5,000. If a person's BGRT liability for any quarter is less than \$5,000, the person can claim an educational tax credit for contributions made in that quarter up to the lesser of (a) the amount of that quarter's BGRT liability or (b) \$5,000 less any of the allowable credit claimed in prior quarters in the same taxable year. The calculated allowable credit can be applied entirely to the quarter during which the contribution was made or can be allocated over remaining quarters, if any, in the remaining taxable year; the credit cannot be allocated to previous quarters in the same taxable year (instead, the credit will be adjusted on the person's final BGRT return for that year).

(i) — Example No. 1. If a person's BGRT liability for the second quarter is \$4,000, the person makes a \$5,000 cash contribution to a qualifying educational institution during the second quarter, and the person has claimed no educational tax credit for the first quarter, the person can claim a \$4,000 educational tax credit for the second quarter to offset the \$4,000 liability. The remaining \$1,000 cash contribution can be carried forward to the third or fourth quarter, provided that the BGRT liability for those quarters equals or exceeds \$1,000.

(ii) — Example No. 2. Assume the same facts as example no. 1, except that the person claimed an educational tax credit in the first quarter in the amount of \$3,500. Under this scenario, the person can claim a \$1,500 (\$5,000 less \$3,500) educational tax credit for the second quarter to offset the \$4,000 liability (the lesser of \$4,000 or \$1,500).

(iii) Example No. 23. A person taxpayer makes a \$5,000 cash contribution to a qualifying educational institution in the first month quarter, has a \$1,500 BGRT liability in the first, second, and third months quarter, has a \$2,000 liability in the fourth month quarter, and wants to use the maximum amount of credit allowable in each month quarter, the person taxpayer can claim the following educational tax credits as follows:

Month	January	February	March	April
Monthly BGRT	1,500	1,500	1,500	2,000
ETC Contribution / Carryover	5,000	3,500	2,000	500
ETC Allowed	1,500	1,500	1,500	500
Tax After ETC	0	0	0	1,500
Remaining ETC	3,500	2,000	500	0

As illustrated above, the taxpayer's BGRT liability in the month of April, \$2,000, exceeded the remaining ETC balance of \$500. As a result, the taxpayer has a tax balance after ETC in the amount of \$1,500 due upon filing.

1st quarter: \$1,500 — is lesser of (\$1,500) or (\$5,000 less \$0)
 2nd quarter: \$1,500 — is lesser of (\$1,500) or (\$5,000 less \$1,500 = \$3,500)
 3rd quarter: \$1,500 — is lesser of (\$1,500) or (\$5,000 less \$3,000 = \$2,000)
 4th quarter: \$500 — is lesser of (\$2,000) or (\$5,000 less \$4,500 = \$500)

(iii) Example No. 3. Assume the same facts as example no. 2, except that the taxpayer made the contribution in the fourth month. The taxpayer can only apply \$2,000 of the \$5,000 contribution in the fourth month. The remaining \$3,000 may be used as credit in any subsequent months. Credits may be applied to satisfy outstanding principal balances (but not accumulated penalties and interest) for months preceding the contribution in the taxpayer's final BGRT return for that year, to the extent the ETC was not fully applied during the remaining months.

<u>Month</u>	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>
<u>Monthly BGRT</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>2,000</u>
<u>ETC Contribution & Carryover</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5,000</u>
<u>ETC Allowed</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,000</u>
<u>Tax After ETC</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>0</u>
<u>Remaining ETC</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3,000</u>

~~(iv)~~ Example No. 4. Assume the same facts as example no. 3, except that the person wants to utilize his educational tax credit only in the fourth quarter and, thus, claims no credit in the first, second, or third quarters. Under this scenario, the person is only entitled to a \$2,000 educational tax credit to be applied against the \$2,000 fourth quarter liability; no credit can be applied for prior quarters; (instead, the credit will be adjusted on the person's final BGRT return for that year).

~~(d)~~ Educational Tax Credit Allowable Amount -- Applied Against BGRT, WST, and ET. Under 4 CMC §§ 1205(a) and 1306(a), a ~~person~~ taxpayer is entitled to utilize the educational tax credit against the ~~person's~~ taxpayer's wage and salary tax, earnings tax, or business gross revenue tax liability~~liabilities~~. The maximum annual credit available is the lesser of (a) the sum of the ~~person's~~ taxpayer's WST, ET, and BGRT or (b) \$5,000.

(1) Timing of Credit for WST. A ~~person~~ taxpayer can claim the educational tax credit against the WST in the allowable amount no earlier than upon the filing of the ~~person's~~ taxpayer's WST return for the corresponding year.

(2) Timing of Credit for ET. A ~~person~~ taxpayer can claim the educational tax credit against the ET in the allowable amount no earlier than upon the filing of the ~~person's~~ taxpayer's ET return for the corresponding year.

(3) Timing of Credit for BGRT. A ~~person~~ taxpayer can claim the educational tax credit against the BGRT in the allowable amount under the rules specified in subsection ~~(d)~~ (e) of this section.

(4) Examples.

(i) Example No. 1. A ~~person~~ taxpayer has an annual WST liability of \$6,500, an annual ET liability of \$400, and an annual BGRT liability of \$8,000. The ~~person~~ taxpayer has made a \$5,000

cash contribution to a qualifying educational institution during the same taxable year and has not yet claimed an educational tax credit with respect to the contribution. Because the ~~person's~~ taxpayer's accumulated WST, ET, and BGRT (\$14,900) is greater than the ~~person's~~ taxpayer's cash contribution (\$5,000), the ~~person~~ taxpayer can choose to allocate the \$5,000 educational tax credit among the WST, ET, and BGRT liabilities at ~~the person's~~ its discretion, in amounts not exceeding the liabilities ~~under for~~ those taxes ~~up to a maximum accumulated credit for all three taxes of \$5,000.~~

(ii) Example No. 2. A taxpayer with annual tax liabilities of \$1,500 for each of WST, ET, and BGRT has made a \$5,000 cash contribution to a qualifying educational institution, and has not claimed an educational tax credit with respect to the contribution made in the same tax year. The taxpayer may claim a \$1,500 educational tax credit against each of the tax liabilities (WST, ET, and BGRT) for a total of \$4,500 claimed in educational tax credits. The remaining \$500 cash contribution cannot be claimed as an educational tax credit in any succeeding or prior years. However, the taxpayer may be entitled to use the remaining \$500 as a charitable contribution deduction under the NMTIT, provided the contribution qualifies under § 170 of the NMTIT.

~~(ii) — Example No. 2. A person has an annual WST, ET, and BGRT liability of \$1,500 each, has made a \$5,000 cash contribution to a qualifying educational institution, and has not claimed an educational tax credit with respect to the contribution. The person can claim a \$1,500 educational tax credit against the WST, ET, and BGRT liability; the remaining \$500 cash contribution cannot be claimed as an educational tax credit in that year or any succeeding or prior years. However, the person may be entitled to use the remaining \$500 as a charitable contribution deduction under the NMTIT, provided the contribution qualifies under § 170 of the NMTIT.~~

(ef) Miscellaneous Rules.

(1) Educational Institutions With Pending Tax Exempt Applications. As specified in 4 CMC § 1205(c)(3) and incorporated in 4 CMC § 1306(c), an educational tax credit is allowed only for contributions made to educational institutions that have been granted tax exempt status by the ~~CNMI Division~~ Division of Revenue and Taxation before the date of the contribution for which the credit is to be taken. Thus, contributions made to organizations that have not ~~applied for or have applications pending on~~ been granted tax exempt status on the date that a contribution is made will not be ~~allowed to be used as an~~ eligible for the educational tax credit.

(2) Educational Institutions Granted Exempt Status by the U.S. Internal Revenue Service But Not by the ~~CNMI Division~~ Division of Revenue and Taxation. As specified in 4 CMC § 1205(c)(3) and incorporated in 4 CMC § 1306(c), an educational tax credit is allowed only for contributions made to educational institutions that have been granted tax exempt status by the ~~CNMI Division~~ Division of Revenue and Taxation. Thus, contributions made to educational organizations that have been granted tax exempt status by the U.S. Internal Revenue Service will only be allowed to be used as an educational tax credit if the recipient organization has received exempt status by the ~~CNMI Division~~ Division of Revenue and Taxation under § 70-40.6-425 of this subchapter -- [entitled] Application Process -- Previously Granted Tax-Exempt Status by U.S. Internal Revenue Service.

(3) Interaction with NMTIT.

(i) WST and ET Non-refundable Credit. Under 4 CMC § 1205(a), a ~~person~~ taxpayer may take the WST and ET paid as a nonrefundable credit against the tax imposed on CNMI sourced income under subtitle A of the NMTIT under chapter 7 of 4 CMC. The amount of the nonrefundable credit allowed shall be reduced by any educational tax credit claimed by the ~~person~~ taxpayer as a credit

against the persontaxpayer's accumulated WST and ET liability. For example, if the persontaxpayer has an accumulated \$8,000 WST and ET liability and offsets that liability with a \$5,000 educational tax credit, the maximum amount of nonrefundable credit that can be applied against the persontaxpayer's NMTIT liability is \$3,000.

(ii) BGRT Non-refundable Credit. Under 4 CMC § 1308 ~~as amended by PL 9-59 and PL 10-73~~, a persontaxpayer may take the BGRT paid as a nonrefundable credit against the tax imposed on CNMI sourced income under subtitle A of the NMTIT under chapter 7 of 4 CMC. The amount of the nonrefundable credit allowed shall be reduced by any educational tax credit claimed by the persontaxpayer as a credit against the persontaxpayer's BGRT liability. For example, if the persontaxpayer has a \$14,000 BGRT liability and offsets that liability with a \$3,500 educational tax credit, the maximum amount of the nonrefundable credit that can be applied against the persontaxpayer's NMTIT liability is \$10,500.

(iii) NMTIT Charitable Contribution Deduction. Under 4 CMC §§ 1205(a) and 1306(a), no educational tax credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return. Thus, if a taxpayer has taken the educational tax credit under 4 CMC §§ 1205 or 1306 and the persontaxpayer has claimed a charitable contribution deduction with respect to the same cash contribution under § 170 of the NMTIT, the educational credit shall be disallowed.

(4) Joint Returns.

(i) Spouses filing joint or separate returns shall each be entitled ~~only~~ to an annual maximum educational tax credit in the amount of the lesser of the individual spouse's cumulative tax liability under 4 CMC §§ 1201, 1202, and 1301 through ~~1303~~1304, or five thousand dollars. One spouse shall not be entitled, whether filing joint or separate returns, to use his or her educational tax credit as a credit against his or her spouse's tax liability.

(ii) Example. Wife makes a \$5,000 cash contribution to an educational institution that qualifies for the education tax credit and the wife has a \$3,000 cumulative tax liability under §§ 1201, 1202, and 1301 through ~~1303~~1304. Husband makes no cash contributions during the same taxable year and has a \$14,000 cumulative tax liability under §§ 1201, 1202, and 1301 through 13034. Wife would be entitled to a \$3,000 educational tax credit; she could not apply and her husband could not claim the remaining \$2,000 cash contribution as an educational tax credit against his \$14,000 tax liability. An illustration is as follows:

	<u>Primary</u>	<u>Spouse</u>
<u>Maximum ETC Allowed</u>	<u>5,000</u>	<u>5,000</u>
<u>ETC Contribution</u>	<u>0</u>	<u>5,000</u>
<u>Cumulative Tax Liability</u>	<u>14,000</u>	<u>3,000</u>
<u>ETC Allowed</u>	<u>0</u>	<u>3,000</u>
<u>Tax After ETC</u>	<u>14,000</u>	<u>0</u>
<u>Remaining ETC (Unused)</u>	<u>0</u>	<u>2,000</u>

Note: Figures are for illustrative purposes only.

Although the spouse has remaining unused ETC of \$2,000, it cannot be used against the primary taxpayer's \$14,000 tax liability. However, the taxpayers may be entitled to use the remaining \$2,000 as a charitable contribution deduction under the NMTIT, provided the contribution qualifies under § 170 of the NMTIT.

~~(f) — Transitional Rules.~~

~~(1) — Scope. PL 10-73 became effective on November 12, 1997. Transitional rules are provided to implement the educational tax credit from November 12, 1997, through December 31, 1997. The credit shall be allowed to be applied against the WST, ET, and the BGRT for that period under the following conditions:~~

~~(i) — The person has satisfied all conditions specified in PL 10-73 and in this subchapter that are applicable to the educational tax credit; and~~

~~(ii) — The contribution must be made within the “tax year.” “Tax year” means January 1, 1997 through December 31, 1997.~~

~~(2) — Examples.~~

~~(i) — Example No. 1: If a person makes a cash contribution to the Public School System on November 15, 1997, and wants to use that contribution as an educational tax credit against his or her fourth quarter 1997 BGRT tax liability that is due on or before January 31, 1998, the person can.~~

~~(ii) — Example No. 2: If a person makes a cash contribution to the Northern Marianas College on December 31, 1997, and wants to use that contribution as an educational tax credit against his 1997 WST or ET liability that is due on or before April 15, 1998, the person can.~~

~~(iii) — Example No. 3: If a person makes a cash contribution to the Public School System on January 8, 1998, and wants to use that contribution as an educational tax credit against his fourth quarter 1997 BGRT tax liability that is due on or before January 31, 1998, the person cannot. Similarly, the credit would also not be available against the person’s 1997 WST or ET liability that must be paid on or before April 15, 1998.~~

~~Modified, 1 CMC § 3806(c), (d), (e), (f), (g).~~

~~History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998).~~

~~Commission Comment: In subsection (a)(3), the Commission changed “Tax” to “Taxation.”~~

~~Public Law 15-120, effective Dec. 21, 2007, added the Joeten Kiyu Public Library to the list of educational institutions able to benefit from education tax credit contributions. 4 CMC § 1205(c). Public Law 16-33, effective Mar. 26, 2009, also added the Northern Marianas Trade Institute to the list of educational institutions able to benefit from education tax credit contributions. 4 CMC § 1205(c). The provisions of PL 15-120 and PL 16-33 supersede subsection(a)(2) to the extent that they conflict.~~

Part 100 - Wages and Salary Tax

§ 70-40.6-101 Wages and Salaries

Pursuant to 4 CMC § 1201, there is imposed on every employee a yearly tax on the employee’s “wages and salaries.” “Wages and salaries” is defined pursuant to 4 CMC § 1103(dd)(z) and subsection (a).

(a) Inclusions. Except as provided in subsection (b), “wages and salaries” includes all compensation to an employee for services derived from “sources within the Commonwealth” as

determined by § 70-40.6-105 of this subchapter. "Wages and salaries" includes, but is not limited to, payments received by an employee for any of the following:

- (1) Standard pay;
- (2) Bonuses, awards, and commissions;
- (3) Back pay awards;
- (4) Tips;
- (5) Severance pay;
- (6) Annual leave;
- (7) Sick leave;
- (8) Administrative leave;
- (9) Holiday work; and
- (10) Any other types of compensatory leave.

(b) Exclusions. "Wages and salaries" shall not include the following:

- (1) Wages and salaries received from the United States by active members of the Armed Forces of the United States. This exception shall not include wages and salaries received from the United States by members of the Armed Forces of the United States in reserve status;
- (2) Reasonable per diem and travel allowances to the extent that they do not exceed any comparable Commonwealth government rates;
- (3) Rental value of a home furnished to any employee or a reasonable rental allowance paid to any employee to the extent the allowance is used by the employee to rent or provide a home;
- (4) Any payment of medical or hospitalization expenses made by an employer or insurance company to or on behalf of an employee or insured;
- (5) Payments made to or on behalf of an employee or to his beneficiary from a trust, annuity, or retirement program;
- (6) Any payment in the form of a scholarship, fellowship, or stipend made to any employee while he is a full-time, bona fide student at an educational institution as defined by § 170(b)(1)(A)(ii) of the NMTIT. Provided, however, that if the payment is made for services rendered, the student must receive college credit(s) for the performance of the services and the services must further the student's education, curriculum, or course of study; and
- (7) Any benefit payment from the United States, Trust Territory, or Northern Marianas Social Security Administration.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: In the opening paragraph, the Commission moved the period after "salaries" inside of the closing quotation mark.

§ 70-40.6-105 Sources Within the Commonwealth

(a) In General. Except as provided in subsection (b), the determination of whether wages and salaries are derived from sources within the Commonwealth for purposes of the wage and salary tax shall be made in accordance with ~~4 CMC § 1103(u)~~ and the sourcing rules of the Northern Marianas Territorial Income Tax at §§ 861, et seq.

(b) Employer Located Within and Without. The determination of source of income as it relates to wages and salaries shall be made in accordance with the following rules:

(1) Employer Within. Wages and salaries paid to an employee from an employer residing within the Commonwealth are considered income from sources within the Commonwealth if:

(i) The services are performed within the Commonwealth; or

(ii) The services are performed without the Commonwealth by a resident individual, unless such income is subject to tax in another jurisdiction, for an aggregate of no more than 90 days during the taxable year.

(iii)(A) Example No. 1. Mr. Sablan is employed by ABC Corporation, a CNMI corporation. Mr. Sablan lives on Saipan but travels to the state of California during the taxable year for a period of 75 days to perform research for his employer, ABC Corporation. After performing such services, Mr. Sablan returns to Saipan. For performing such services, Mr. Sablan receives compensation in the amount of \$3,000. The compensation received by Mr. Sablan in the amount of \$3,000 is deemed income from sources within the Commonwealth.

(B) Example No. 2. Same facts as example no. 1 except that Mr. Sablan performs services for ABC Corporation in the state of California for a period of 95 days. The compensation received by Mr. Sablan in the amount of \$3,000 is not deemed income from sources within the Commonwealth.

(C) Example No. 3. Ms. Moore is employed by XYZ Corporation, a CNMI corporation with offices located in the states of California and Arizona. Ms. Moore lives in the state of Arizona and performs services in the state of Arizona for the Arizona office of XYZ Corporation for a period of 60 days during the taxable year. After performing such services, Ms. Moore remains in the state of Arizona. For performance of such services, Ms. Moore receives compensation in the amount of \$2,000. The compensation received by Ms. Moore is not deemed income from sources within the Commonwealth.

(2) Employer Without. Wages and salaries paid to an employee for services performed in the Commonwealth by ~~from~~ an employer residing or domiciled outside the Commonwealth are ~~not~~ considered income from sources within the Commonwealth unless:

(i) ~~The services are performed within the Commonwealth; and~~

(ii)(A) The services are performed by an employee temporarily present in the Commonwealth for a period or periods not exceeding a total of 90 days during the taxable year; ~~or and~~

(ii)(B) The aggregate compensation received by an employee for services performed in the Commonwealth does not exceeds \$13,000.

(iii)(A) Example No. 1. Ms. Dorothy Mae, a secretary accompanied Mr. Jason Peter to Saipan on five different occasions in 2017 ~~1990~~. Both Ms. Mae and Mr. Peter are employees of a food chain business in Hong Kong. Their trips to Saipan were all on business. Ms. Mae was in the CNMI for 45 14 days and received a salary of \$750 \$2,000 for services performed within Saipan. Mr. Peter received ~~\$1,500~~ \$7,000 for the same period for services performed within Saipan. Ms. Mae's compensation is not considered income from sources within the ~~e~~Commonwealth for purposes of the wage and salary tax because her employer does not reside in the Commonwealth, she is present in the CNMI for less than 90 days, and her salary is less than \$13,000. She is not required to pay the wage and salary tax on the compensation of \$750 \$2,000 derived from services performed within the Commonwealth. However, Mr. Peter's compensation ~~income~~ is ~~deemed income from sources~~ sourced within the Commonwealth because his salary exceeds the \$13,000 limitation. Mr. Peter is required to pay the wage and salary tax on the compensation of ~~\$1,500~~ \$7,000.

0	19.24	0
19.25	96.17	2.0%
96.18	134.63	3.0%
134.64	288.48	4.0%
288.49	423.09	5.0%
423.10	576.94	6.0%
576.95	769.24	7.0%
769.25	961.55	8.0%
961.56	and over	9.0%

~~Amount Earned—Bi-weekly~~

From	To	Rate
0	38.49	0
38.50	192.34	2.0%
192.35	269.26	3.0%
269.27	576.96	4.0%
576.97	846.19	5.0%
846.20	1,153.88	6.0%
1,153.89	1,538.49	7.0%
1,538.50	1,923.11	8.0%
1,923.12	and over	9.0%

~~Amount Earned—Semi-monthly~~

From	To	Rate
0	41.70	0
41.71	208.37	2.0%
208.38	291.70	3.0%
291.71	625.04	4.0%
625.05	916.70	5.0%
916.71	1,250.04	6.0%
1,250.05	1,666.70	7.0%
1,666.71	2,083.37	8.0%
2,083.38	and over	9.0%

~~Amount Earned—Monthly~~

From	To	Rate
0	83.41	0
83.42	416.74	2.0%
416.75	583.41	3.0%
583.42	1,250.08	4.0%
1,250.09	1,833.41	5.0%
1,833.42	2,500.08	6.0%
2,500.09	3,333.41	7.0%
3,333.42	4,166.74	8.0%
4,166.75	and over	9.0%

(c) Non-CNMI Employers. Employees of employers who do not have a place of business in the Commonwealth or an agent within the Commonwealth responsible for making the returns, withholdings, and payments of taxes on compensation under chapter 2 of 4 CMC, are required to pay the wage and salary tax.

(1) The wage and salary tax shall be paid on a quarterly basis based on the following withholding tables:

<u>First Quarter</u>		<u>Second Quarter</u>		<u>Third Quarter</u>		<u>Fourth Quarter</u>		<u>Tax</u> <u>Rate</u>
<u>Income Level</u>		<u>Income Level</u>		<u>Income Level</u>		<u>Income Level</u>		
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
<u>0</u>	<u>250.00</u>	<u>0</u>	<u>500.00</u>	<u>0</u>	<u>750.00</u>	<u>0</u>	<u>1,000.00</u>	<u>0%</u>
<u>250.01</u>	<u>1,250.00</u>	<u>500.01</u>	<u>2,500.00</u>	<u>750.01</u>	<u>3,750.00</u>	<u>1,000.01</u>	<u>5,000.00</u>	<u>2%</u>
<u>1,250.01</u>	<u>1,750.00</u>	<u>2,500.01</u>	<u>3,500.00</u>	<u>3,750.01</u>	<u>5,250.00</u>	<u>5,000.01</u>	<u>7,000.00</u>	<u>3%</u>
<u>1,750.01</u>	<u>3,750.00</u>	<u>3,500.01</u>	<u>7,500.00</u>	<u>5,250.01</u>	<u>11,250.00</u>	<u>7,000.01</u>	<u>15,000.00</u>	<u>4%</u>
<u>3,750.01</u>	<u>5,500.00</u>	<u>7,500.01</u>	<u>11,000.00</u>	<u>11,250.01</u>	<u>16,500.00</u>	<u>22,000.01</u>	<u>22,000.00</u>	<u>5%</u>
<u>5,500.01</u>	<u>7,500.00</u>	<u>11,000.01</u>	<u>15,000.00</u>	<u>16,500.01</u>	<u>22,500.00</u>	<u>30,000.01</u>	<u>30,000.00</u>	<u>6%</u>
<u>7,500.01</u>	<u>10,000.00</u>	<u>15,000.01</u>	<u>20,000.00</u>	<u>22,500.01</u>	<u>30,000.00</u>	<u>30,000.01</u>	<u>40,000.00</u>	<u>7%</u>
<u>10,000.01</u>	<u>12,500.0</u>	<u>20,000.01</u>	<u>25,500.00</u>	<u>30,000.01</u>	<u>37,500.00</u>	<u>40,000.01</u>	<u>50,000.00</u>	<u>8%</u>
<u>12,500.01</u>	<u>And over</u>	<u>25,500.01</u>	<u>And over</u>	<u>37,500.01</u>	<u>And over</u>	<u>50,000.01</u>	<u>And over</u>	<u>9%</u>

Income Level—First Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
<u>0</u>	<u>250.00</u>	<u>0</u>
<u>250.01</u>	<u>1,250.00</u>	<u>2.0%</u>
<u>1,250.01</u>	<u>1,750.00</u>	<u>3.0%</u>
<u>1,750.01</u>	<u>3,750.00</u>	<u>4.0%</u>
<u>3,750.01</u>	<u>5,500.00</u>	<u>5.0%</u>
<u>5,500.01</u>	<u>7,500.00</u>	<u>6.0%</u>
<u>7,500.01</u>	<u>10,000.00</u>	<u>7.0%</u>
<u>10,000.01</u>	<u>12,500.00</u>	<u>8.0%</u>
<u>12,500.01</u>	<u>and over</u>	<u>9.0%</u>

Income Level—Second Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
<u>0</u>	<u>500.00</u>	<u>0</u>
<u>500.01</u>	<u>2,500.00</u>	<u>2.0%</u>
<u>2,500.01</u>	<u>3,500.00</u>	<u>3.0%</u>
<u>3,500.01</u>	<u>7,500.00</u>	<u>4.0%</u>
<u>7,500.01</u>	<u>11,000.00</u>	<u>5.0%</u>
<u>11,000.01</u>	<u>15,000.00</u>	<u>6.0%</u>
<u>15,000.01</u>	<u>20,000.00</u>	<u>7.0%</u>
<u>20,000.01</u>	<u>25,500.00</u>	<u>8.0%</u>
<u>25,500.01</u>	<u>and over</u>	<u>9.0%</u>

Income Level—Third Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
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0-	750.00	0-
750.01	3,750.00	2.0%
3,750.01	5,250.00	3.0%
5,250.01	11,250.00	4.0%
11,250.01	16,500.00	5.0%
16,500.01	22,500.00	6.0%
22,500.01	30,000.00	7.0%
30,000.01	37,500.00	8.0%
37,500.01	and over	9.0%

~~Income Level~~ — Fourth Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
0-	1,000.00	0-
1,000.01	5,000.00	2.0%
5,000.01	7,000.00	3.0%
7,000.01	15,000.00	4.0%
15,000.01	22,000.00	5.0%
22,000.01	30,000.00	6.0%
30,000.01	40,000.00	7.0%
40,000.01	50,000.00	8.0%
50,000.01	and over	9.0%

(2) Employees who perform services during the taxable year, both as an employee receiving salary and wages subject to withholding pursuant to 4 CMC § ~~1804(e)~~ **1821** and as an individual receiving compensation not subject to withholding tax pursuant to 4 CMC § ~~1804(e)~~ **1821(e)** are required to pay the wage and salary tax not so withheld. An individual subject to withholding under ~~1804(e)~~ **1821(e)** must file quarterly returns during the period his/her wages are not subject to withholding taxes pursuant to the tables established in this subsection. The combined wages and salary earned both as an employee subject to withholding tax and as an individual not subject to withholding tax must be reported on the Employee's Annual Wage and Salary Tax Return as provided in § 70-40.62-140 of this subchapter. Forms W-2 and W-2CM must be attached to the tax return. The provisions of this paragraph shall not apply beginning with taxable period after December 31, 1984, to employees paying estimated tax on income not subject to withholding, provided that the tax required under ~~1804(e)~~ **4 CMC § 1821(e)** is included in such estimated tax payment.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-115 Withholding; Non-refundable Credit

(a) In General. Except as provided by subsection (d) and pursuant to and as provided by 4 CMC § 1206 ~~as amended by PL 9-59 and PL 10-73~~, a person may take the tax imposed on wages and salaries as a nonrefundable credit against the tax imposed on Commonwealth source income under subtitle A of the NMTIT pursuant to chapter 7 of title 4. However, no such credit shall be

allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return.

(b)(1) Withholding by Employers. In order for 4 CMC § 1206 as amended by PL 9-59 and PL 10-73 to apply at the time withholdings are deducted and remitted by an employer, the items of income subject to the NMTIT and the wage and salary tax must be taxable and/or that withholding must be required at the time the NMTIT and wage and salary tax was withheld or paid.

(2) This subsection may be illustrated by the following examples:

(i) Example No. 1 ABC Company Withholding Tax

Employee Name	Gross Wages	CH 7 Tax Withheld	CH 2 Tax Computed	CH 2 Tax Tentative Credit	CH 2 Tax Withheld
Employee A	\$600.00	\$60.00	\$40.00	\$40.00	\$0.00
Employee B	400.00	25.00	40.00	25.00	15.00
Employee C	500.00	30.00	30.00	30.00	0.00
-	-	-	-	-	-
Totals	\$1,500.00	\$115.00	\$115.00	\$95.00	\$15.00
-	-	-	-	-	-
Amount to Remit	N/A	\$115.00	N/A	N/A	\$15.00
-	-	-	-	-	-

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Employee Name</u>	<u>Gross Wages</u> <u>[Bi-weekly]</u>	<u>CH 2 Tax WH</u>	<u>CH 7 Tax Computed</u>	<u>Actual CH7 Tax WH</u> <u>[C-B]</u>	<u>Total Taxes WH</u> <u>[B+D]</u>
<u>Employee A</u>	<u>\$400.00</u>	<u>\$16.00</u>	<u>\$17.00</u>	<u>\$1.00</u>	<u>\$17.00</u>
<u>Employee B</u>	<u>500.00</u>	<u>20.00</u>	<u>27.00</u>	<u>7.00</u>	<u>27.00</u>
<u>Employee C</u>	<u>700.00</u>	<u>35.00</u>	<u>66.00</u>	<u>31.00</u>	<u>66.00</u>
-	-	-	-	-	-
<u>Total WH</u>	-	<u>\$71.00</u>	-	<u>\$39.00</u>	<u>\$110.00</u>
-	-	-	-	-	-

Note: Figures are for illustrative purposes only.

(ii) Example No. 2 XYZ Company Withholding Tax

Employee Name	Gross Wages	CH 7 Tax Withheld	CH 2 Tax Computed	CH 2 Tax Tentative Credit	CH 2 Tax Withheld
-	-	-	-	-	-
Employee A	\$800.00	\$100.00	\$75.00	\$75.00	\$0.00
Employee B	1,000.00	75.00	80.00	75.00	5.00
Employee C	500.00	40.00	40.00	40.00	0.00
-	-	-	-	-	-

Totals	\$2,300.00	\$215.00	\$195.00	\$190.00	\$5.00
-	-	-	-	-	-
Amount to Remit	N/A	\$215.00	N/A	N/A	\$5.00

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Employee Name</u>	<u>Gross Wages</u> <u>[Bi-weekly]</u>	<u>CH 2 Tax WH</u>	<u>CH 7 Tax Computed</u>	<u>Actual CH7 Tax WH</u> <u>[C-B]</u>	<u>Total Taxes WH</u> <u>[B+D]</u>
<u>Employee A</u>	<u>\$1,200.00</u>	<u>\$84.00</u>	<u>\$131.00</u>	<u>\$47.00</u>	<u>\$131.00</u>
<u>Employee B</u>	<u>1,800.00</u>	<u>144.00</u>	<u>258.00</u>	<u>114.00</u>	<u>258.00</u>
<u>Employee C</u>	<u>2,000.00</u>	<u>180.00</u>	<u>308.00</u>	<u>128.00</u>	<u>308.00</u>
<u>Total WH</u>	-	<u>\$408.00</u>	-	<u>\$289.00</u>	<u>\$697.00</u>
-	-	-	-	-	-

Note: Figures are for illustrative purposes only

(iii) In example no. 2 above, for employee A, the actual tax withheld under chapter 7 (column D) of \$47.00 was the result of the chapter 2 tax of \$84.00 (column B) applied as a non-refundable credit against the computed chapter 7 tax (column C) of \$131.00. The amount of the nonrefundable credit allowable is the lesser of the amount of the chapter 2 tax withheld or the chapter 7 tax computed. As the amount of the chapter 2 tax withheld of \$84.00 is less than the amount of the chapter 7 tax computed of \$131.00, the amount of the non-refundable credit is \$84.00.

Employee A's combined withholding is \$131.00 (\$84.00 for wage and salary tax and \$47.00 for NMTIT), which in effect equals the greater amount of chapters 2 or 7 (~~NMTIT~~). XYZ Company shall deduct the \$131.00 from A's payroll check and classify as indicated above. Allowing the non-refundable credit, in effect, relieves employee A of any chapter 7 (~~NMTIT~~) withholding tax to the extent of any wage and salary tax withheld on ~~the same wages and salaries~~ that amount.

(c) Payment by Employees. In order for 4 CMC § 1206 as amended by PL 9-59 and PL 10-73 to apply at the time employees who are required to pay the wage and salary tax under 4 CMC § ~~1804(e)~~ 1821(e), the items of income subject to the NMTIT and the wage and salary tax must be taxable and/or that chapter 2 payment must be required at the time the NMTIT estimated tax payment was made. This subsection may be illustrated by the following example:

(1) Example No. 1

<u>Employee Name</u>	<u>Gross Wages</u>	<u>CH 7 Estimated Tax Paid</u>	<u>CH 2 Tax Computed</u>	<u>CH 2 Tax Tentative Credit</u>	<u>CH 2 Tax Paid</u>	<u>Employee Total to Remit</u>
-	-	-	-	-	-	-
<u>Employee A</u>	<u>\$800.00</u>	<u>\$100.00</u>	<u>\$75.00</u>	<u>\$75.00</u>	<u>\$0.00</u>	<u>\$100.00</u>

Employee B	1,000.00	75.00	80.00	75.00	5.00	\$80.00
Employee C	500.00	40.00	40.00	40.00	0.00	\$40.00

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Employee Name</u>	<u>Gross Wages</u> <u>[Bi-weekly]</u>	<u>CH 2 Tax Paid</u>	<u>CH 7 Tax Computed</u>	<u>Actual CH7 Tax Paid</u> <u>[C-B]</u>	<u>Total Taxes Paid</u> <u>[B+D]</u>
<u>Employee A</u>	<u>\$1,200.00</u>	<u>\$84.00</u>	<u>\$131.00</u>	<u>\$47.00</u>	<u>\$131.00</u>
<u>Employee B</u>	<u>1,800.00</u>	<u>144.00</u>	<u>258.00</u>	<u>114.00</u>	<u>258.00</u>
<u>Employee C</u>	<u>2,000.00</u>	<u>180.00</u>	<u>308.00</u>	<u>128.00</u>	<u>308.00</u>
<u>Total WH</u>	-	<u>\$408.00</u>	-	<u>\$289.00</u>	<u>\$697.00</u>
-	-	-	-	-	-

Note: Figures are for illustrative purposes only

(iii) In example no. 1 above, for employee A, the actual tax paid under chapter 7 (column D) of \$47.00 is the result of the chapter 2 tax of \$84.00 (column B) applied as a non-refundable credit against the computed chapter 7 tax (column C) of \$131.00. The amount of the nonrefundable credit allowable is the lesser of the amount of the chapter 2 tax withheld or the chapter 7 tax computed. As the amount of the chapter 2 tax withheld of \$84.00 is less than the amount of the chapter 7 tax computed of \$131.00, the amount of the non-refundable credit is \$84.00.

Employee A's combined liability is \$131.00 (\$84.00 for wage and salary tax and \$47.00 for NMTIT), which in effect equals the greater amount of chapters 2 or 7. Employee A shall deduct the \$131.00 from her payroll check and classify as indicated above. Allowing the non-refundable credit, in effect, relieves employee A of chapter 7 withholding tax to the extent of any wage and salary tax withheld on that amount.

Note: Figures are for illustrative purposes only

(2) In example no. 1 above, for employee A, the actual tax paid under chapter 7 of \$25.00 is the result of the chapter 2 wage and salary tax paid of \$75.00 applied as a non-refundable credit against the computed chapter 7 estimated tax of \$100.00. The amount of the nonrefundable credit is the lesser of the amount of the chapter 7 estimated tax computed and the chapter 2 tax paid. As the amount of the chapter 7 estimated tax computed of \$100.00 is greater than the amount of the chapter 2 tax paid in the amount of \$75.00, the amount of the non-refundable credit is limited to the amount of \$75.00.

Employee A's combined chapter 2 and chapter 7 liability is \$100.00 (\$75.00 for chapter 2 wage and salary tax and \$25.00 for chapter 7 NMTIT), which in effect equals the greater amount of chapters 2 or 7 (NMTIT). Employee A shall pay the \$100.00 and classify as indicated above. Allowing the non-refundable credit, in effect, relieves employee A of paying \$75.00 of the chapter

~~7 NMTIT imposed on wages and salaries received to the extent of the non-refundable credit which arises from the same taxable period.~~

(d) Reduction of Non-refundable Credit for PL 10-73 Educational Tax Credit. The amount of the nonrefundable credit allowed under subsection (a) and as provided by law shall be reduced by the amount of educational tax credit, allowed under 4 CMC § 1205, that is claimed by a person during the taxable year. See § 70-40.6-040(e)(3).

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsections (b) and (c) were not designated. The Commission designated subsections (b)(1) and (b)(2) and (c)(1) and (c)(2).

The notice of adoption for the 1995 regulations changed the proposed language of subsection (b). The 1996 amendments deleted and replaced this section in its entirety with numerous amendments. The 1998 amendments added new subsection (d) and amended subsections (a), (b)(1) and (c).

§ 70-40.6-120 Wage and Salary Tax Withholding; Time For Tax Payment

(a) Employer. Every employer required to withhold tax on compensation under chapter 2 and/or chapter 7 of 4 CMC must make a deposit of the taxes withheld as provided for under subsections (a)(1), (a)(2) and (a)(3) below. These deposits shall be made to the Division of Revenue and Taxation on Saipan or the Tinian and Rota District Offices. Payment deposit form 500-WH shall be used when paying taxes for both 4 CMC chapter 2 (wages and salary tax) and 4 CMC chapter 7 (NMTIT).

(1)(i) If the cumulative amount of chapter 2 and chapter 7 tax actually withheld equals or exceeds \$3,000.00, the withholding tax shall be deposited within 3 working days after the accumulated amount reaches \$3,000.00 or more. However, if the \$3,000.00 in cumulative withholding taxes were met as a result of overlapping into the first month of the succeeding quarter, a separate deposit form 500-WH must be made which segregates taxes withheld up to the end of the last month of the quarter. The balance of the withheld taxes must be deposited at the same time and shall be credited to the succeeding quarter's return.

(ii) Example No. 1: Taxpayer P has 150 employees, each of whom has \$20.00 in withholding taxes on a biweekly payroll period. Thus, for each payroll period, the total withholding tax of taxpayer P is equal to \$3,000.

<u>Payroll Period</u>	<u>Withholding Amount</u>
Month #1, Payroll Period #1	\$3,000.00
Month #1, Payroll Period #2	<u>\$3,000.00</u>
	\$6,000.00
Month #2, Payroll Period #1	\$3,000.00
Month #2, Payroll Period #2	<u>\$3,000.00</u>
	\$6,000.00

Month #3, Payroll Period #1	\$3,000.00
Month #3, Payroll Period #2	<u>\$3,000.00</u>
	\$6,000.00

Since the withholding tax in the first payroll period equals \$3,000.00, taxpayer P must make a deposit within 3 working days after the first payday and 3 working days after each payday for all subsequent paydays.

(2)(i) If the cumulative amount of chapter 2 and chapter 7 tax actually withheld is less than \$3,000.00 but at least \$500.00 at the end of any given month, the withholding taxes must be deposited within fifteen days after the end of the month in which the taxes were withheld. The deposits for the first and second months of the quarter shall be made on or before the fifteenth day after the end of the month in which the taxes were withheld. The deposit for the third month may be paid with form OS-3705, employers quarterly tax return, as provided in § 70-40.6-125(a) of this subchapter and on or before the due date of the quarterly returns as specified in § 70-40.6-125(a) of this subchapter.

(ii) Example No. 2: Taxpayer Q has 10 employees, each of whom has \$50.00 in withholding taxes for each month of the first quarter. Thus, for each payroll period, the total withholding tax of taxpayer Q is equal to \$500.00.

<u>Payroll Period</u>	<u>Withholding Amount</u>
January	\$500.00
February	\$500.00
March	\$500.00

Since the monthly withholding in each month equals \$500.00, taxpayer Q must make a monthly deposit. The deposit for the first calendar month, January, must be made in the amount of \$500.00 on or before February 15. The deposit for the second calendar month, February, must be made in the amount of \$500.00 on or before March 15. The deposit for the third calendar month, March, may be paid with form OS-3705 on or before April 30.

(iii) Example No. 3: Taxpayer R has 5 employees, each of whom has \$20.00 in withholding taxes in the first calendar month of the quarter. Thus, for the first calendar month, the total withholding tax of taxpayer R is equal to \$100.00. In the second month of the quarter taxpayer R hires 20 additional employees, each of whom has \$20.00 in withholding taxes. Thus, for the second calendar month, the total withholding tax of taxpayer R is equal to \$500.00.

<u>Payroll Period</u>	<u>Withholding Amount</u>
January	\$100.00
February	\$500.00
March	\$500.00

Taxpayer R does not have to make a deposit on or before February 15 for withholding tax in January since the withholding tax is less than \$500.00. However, taxpayer R must make a deposit in the amount of \$600.00 for withholding for the first and second months on or before March 15. The deposit for the third calendar month, March, may be paid with form OS-3705 on or before April 30.

(3)(i) If the cumulative amount of chapter 2 and chapter 7 tax actually withheld is less than \$500.00 at the end of any calendar month, the employer is not required to make a monthly deposit. Instead, the employer must pay the taxes with form OS-3705, employers quarterly tax return, on or before the due dates of this return as provided in § 70-40.6-125(a) of this subchapter.

(ii) Example No. 4: Taxpayer S has 15 employees, each of whom has \$10.00 in withholding taxes. Thus, for each calendar month, the total withholding tax of taxpayer S is equal to \$150.00.

<u>Payroll Period</u>	<u>Withholding Amount</u>
Month #1	\$150.00
Month #2	\$150.00
Month #3	\$150.00

Taxpayer S does not have to make monthly deposits since the monthly withholding is less than \$500.00. Instead, taxpayer S must pay the taxes with form OS-3705, employers quarterly tax return, on or before the due dates of this return as provided in § 70-40.6-125(a) of this subchapter.

(b) Employee. An employee required under 4 CMC § ~~1804(e)~~ **1821(e)** to pay the wage and salary tax himself or herself, must make such deposits at the Division of Revenue and Taxation in Saipan or at the Tinian and Rota District Offices. Payment deposit form 500-ES shall be used when paying taxes for both 4 CMC chapter 2 (wages and salary tax) and 4 CMC chapter 7 (NMTIT).

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsections (a)(1) through (a)(3) were not designated. The Commission designated subsections (a)(1)(i) and (ii), (a)(2)(i) through (iii), and (a)(3)(i) and (ii).

§ 70-40.6-125 Quarterly Withholding Return, Form OS-3705

(a) Employer. Every employer required to deduct and withhold any chapter 2 (wage and salary tax) and/or chapter 7 (NMTIT) shall on or before the last day of the month following the close of each quarter make a full and correct return showing all wages and salaries paid by the employer during the preceding quarter and showing the tax due and withheld thereon. Form OS-3705 is the return used to report the employee's wages and salaries by the employer and amount of tax withheld. It requires the employee's U.S. Social Security number, employee's name, taxable wages, tax withheld for each employee, and all other information required on the form prescribed by the Secretary. Form OS-3705A is the continuation sheet for form OS-3705. Form OS-3705 shall be filed on or before the last day of the date specified below:

<u>Quarter</u>	<u>Due Date</u>
First Quarter	April 30
Second Quarter	July 31
Third Quarter	October 31
Fourth Quarter	January 31

(b) Employee. An employee required under 4 CMC § 1804(e) 1821(e) to pay the wage and salary tax himself or herself is not required to file a quarterly withholding return. Instead, the filing of the payment deposit form 500-ES as provided in § 70-40.6-120(b) of this subchapter fulfills the employee's filing requirements. Payments and form 500-ES shall be made and filed on a quarterly basis on or before the last day of the date specified below:

<u>Quarter</u>	<u>Due Date</u>
First Quarter	April 30
Second Quarter	July 31
Third Quarter	October 31
Fourth Quarter	January 31

(c) Applicability of NMTIT Returns. Quarterly withholding returns required to be filed under the NMTIT, e.g., form 941, are satisfied upon the filing of the quarterly withholding returns under this section.

(d) When a chapter 7 NMTIT return is filed as required under subsection (a) also includes chapter 2 (wage and salary tax) withholdings, that return shall be considered filed for the purposes of assessing failure to file penalties under 4 CMC § 18122.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-130 Annual Wage and Tax Statement

Every employer paying wages and salaries subject to chapter 2 (wage and salary tax) and/or chapter 7 (NMTIT) shall furnish to each employee and file a copy with the Division of Revenue and Taxation on or before January 31 of the succeeding year a written statement showing the wages or salaries paid by the employer to each employee and the amount of the tax deducted and withheld or paid, if any, with respect to such compensation. The statement which satisfies this requirement is form W-2CM required to be issued and filed under the NMTIT.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-135 Annual Reconciliation of Employer's Income Tax Quarterly Withholding

(a) Employer Return. Every employer required to deduct and withhold any chapter 2 wage and salary tax and/or chapter 7 NMTIT shall file a form OS-3710 "Annual Reconciliation of Employers Income Tax Quarterly Withholding" on or before January 31 after the close of the taxable year with the Division of Revenue and Taxation. Copy A of form W-2CM, wage and tax statement, is required to be attached to form OS-3710. Form OS-3710 replaces IRS form W-3, transmittal of wage and tax statements.

(b) Employee Return. Every employee who is required under 4 CMC § ~~1804(e)~~ 1821(e) to pay and remit chapter 2 wage and salary tax on a quarterly basis is required to file an annual reconciliation return. However, such requirement is met by filing an employee's annual wage and salary tax return as provided in § 70-40.6-140 of this subchapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-140 Employee's Annual Wage and Salary Tax Return

(a) Requirement. Except as provided in subsection (b) and unless as provided otherwise, every employee subject to tax under 4 CMC § 1201 is required to file an "employee's annual wage and salary tax return," form 1040NMI, on or before April 15, after the end of the taxable year. Any additional tax due is payable upon the filing of this return. Any tax determined to be overwithheld or overpaid will be refunded without the necessity of filing an application for refund. Copy 2 of form W-2 or W-2CM must be attached to form 1040NMI. No refund will be made without the wage and tax statement attached.

(b) Exception. An employee required to file an income tax return, form 1040EZ-CM, form 1040A-CM or form 1040CM, for the taxable year need not file a 1040NMI return. Instead, such 1040NMI return is satisfied by filing with the CNMI government a form 1040EZ-CM, form 1040A-CM or form 1040CM covering the same taxable period.

(c) Extension. Taxpayers who have requested an automatic 46-month extension of time to file an annual individual income tax return for the same taxable year, are automatically granted the same amount of extension of time to file their form 1040NMI; provided, however, that the taxpayer properly estimates his or her wage and salary tax due (calculated after the 4 CMC § 1205 non-refundable credit) and pays such on or before April 15 of the year succeeding the taxable year to which the return relates.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-145 Effective Date

Withholding taxes to be deducted and remitted by an employer pursuant to 4 CMC § ~~1821~~ 1804 shall be calculated based on wages and salaries paid commencing on the first day of each employer's first payroll period beginning after December 31 to the last day of each taxable year. Employers shall not change their customary payroll periods if such change would result in the postponement of the effective date on which to commence withholding the tax on wages and salaries.

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Part 200 - Earnings Tax

§ 70-40.6-201 Earnings

(a) In General. Pursuant to 4 CMC § 1202, there is imposed on every person a yearly tax on such person's total earnings. Except as provided in subsection (c) of this section and subsection (b)(5), "earnings" means those items identified in 4 CMC § 1202(b) and subsection (b) of this section that are not derived in the course of carrying on a business as defined by 4 CMC § 1103(b) and ~~§ 70-40.6-030(a) of this subchapter~~. Items that are derived in the course of carrying on a business are subject to the gross revenue tax, as appropriate and applicable, imposed at 4 CMC chapter 3.

(b) Earnings. "Earnings" means the following items, unless otherwise provided, that are not derived in the course of carrying on a business as defined by 4 CMC § 1103(b) and ~~§ 70-40.6-030(a) of this subchapter~~:

(1) A gain as determined under § 1001 of the NMTIT received from the sale of personal property, tangible or intangible, by a resident in the Commonwealth. For purposes of this provision, the basis of such personal property may be determined under 4 CMC § 1703(c) subject to the provisions of 4 CMC § 1703 and this subchapter;

(2) One-half of the gain as determined under § 1001 of the NMTIT received from the sale of real property located in the Commonwealth. For purposes of this provision, the basis of such real property may be determined under 4 CMC § 1703(c) subject to the provisions of 4 CMC § 1703 and this subchapter;

(3) One-half of the net income received from leasing real property located in the Commonwealth, including the assignment of any lease. For purposes of this provision, "net income from leasing real property including the assignment of any lease" means the income less expenses from the rental of real property. The expenses allowed as deductions in calculating the net leasing income are only those allowable under the NMTIT;

(4) Gross winnings as defined by § 70-40.6-030(i) of this subchapter from any gaming, lottery, raffle, or other gambling activity in the Commonwealth whether derived in the course of carrying on a business or not derived in the course of carrying on a business. Gross winnings subject to the earnings tax shall not include those exempt from the earnings tax by subsection (c)(9) of this section;

(5) Except as provided in 4 CMC § 1202(b)(6)(i)-(v) and subsection (c) of this section, all other types of income that a resident individual must report in determining his NMTIT.

(c) "Earnings" does not include the following items:

(1) Income which is subject to the wage and salary tax of 4 CMC § 1201;

(2) Wages and salaries received from the United States by active members of the Armed Forces of the United States;

(3) Reasonable per diem and travel allowances to the extent that they do not exceed any comparable Commonwealth government rates;

(4) Rental value of a home furnished to any employee or a reasonable rental allowance paid to any employee to the extent the allowance is used by the employee to rent or provide a home;

- (5) Any payment of medical or hospitalization expenses made by an employer or insurance company to or on behalf of an employee or insured;
- (6) Payments made to or on behalf of an employee or to his beneficiary to or from a trust, annuity, or retirement program. However, contributions made by an employer on behalf of an employee to a qualified plan as provided in the NMTIT which exceed that allowed as elective deferred compensation under the NMTIT shall not be excluded from the earnings tax.
- (7) Any payment in the form of a scholarship, fellowship, grant, stipend, or the like made to any student while he is a full-time, bona fide student at an educational institution as defined by § 170(b)(1)(A)(ii) of the NMTIT: provided, however, that if the payment is made for services rendered, the student must receive college credit(s) for the performance of the services and the services must further the student's education, curriculum, or course of study.
- (8) Any benefit payment from the United States, Trust Territorial, or Northern Marianas Social Security Administration.
- (9) Jackpot winnings subject to the gaming machine jackpot tax of 4 CMC § 1505. Any jackpot winnings that are not subject to the gaming machine jackpot tax are, however, subject to the earnings tax as otherwise provided.
- (i) Example No. 1: In 2017, taxpayer A wins \$1,000 from playing a poker machine. The gaming machine jackpot tax applicable to A is ~~\$100~~ **\$300**. Since the entire amount of jackpot winnings earned by A is subject to the gaming machine jackpot tax, A is not subject to the earnings tax on this \$1,000.
- (ii) Example No. 2: In ~~1996~~ **2017**, taxpayer B wins \$500 from playing a poker machine. The gaming machine jackpot tax is not applicable to A because winnings were less than \$1,000. Therefore, A is subject to the earnings tax on this \$500.
- (10) Earnings derived by a person granted tax-exempt status by the Division of Revenue and Taxation as an organization exempt under NMTIT §§ 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(8), or 501(c)(10) to the extent allowed under 4 CMC § 1203(a) provided the person is in compliance with part 400 of this subchapter; and
- (11) Interest and dividends sourced in the Commonwealth not in the course of carrying on a business, to the extent the aggregate amount of such income does not exceed \$2,000.
- (12) De Minimis. Earnings which combined with all other earnings of a person for a taxable year of a person do not exceed \$1,000 in total for ~~a complete~~ **the** taxable year.
- (d) In no instance shall an item of earnings be subject to taxation under the earnings tax more than once. For example, items subject to the earnings tax under 4 CMC § 1202(b)(1) - (5) shall not be again subject to the earnings tax under 4 CMC § 1202(b)(6).

* So in original.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsection (c)(9) were not designated. The Commission designated subsections (c)(9)(i) and (ii).

The 1996 amendments amended subsection (b)(6). The 1998 amendments deleted former subsection (b)(4), redesignated former subsections (b)(5) and (b)(6) accordingly, added a new subsection (c)(11) and redesignated former subsection (c)(11) as (c)(12).

In subsection (c)(11), the Commission changed “no” to “not” to correct a manifest error.

§ 70-40.6-205

[Reserved.]

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-210

[Reserved.]

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-215 Non-refundable Credit

(a) In General.

(1) Except as provided by subsection (b) and pursuant to and as provided by 4 CMC § 1206 as amended by PL 9-59 and PL 10-73, a person may take the tax imposed on earnings as a nonrefundable credit against the tax imposed on Commonwealth source income under subtitle A of the NMTIT pursuant to chapter 7 of title 4. However, no such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return.

(2) Example No. 1: In ~~1996~~ 2017, taxpayer A has \$100,000 of earnings subject to the earnings tax and the NMTIT. For this taxable year, taxpayer A has no other income, will file a joint return, and will claim two personal exemptions. At the close of the taxable year, taxpayer A prepares his form 1040CM and determines the following:

	<u>Earnings Tax</u>	<u>NMTIT</u>
Gross Income/Earnings	\$100,000.00	\$100,000.00
Less: Personal Exemptions	N/A	(5,000.00)
Less: Standard Deduction	N/A	(6,500.00)
Taxable Income/Earnings	100,000.00	88,500.00
Calculated Tax	9,000.00	19,983.00
Less: ET Tax Paid / Non-refundable Credit	(9,000.00)	(9,000.00) N/A
Balance after Non-refundable Credit	-0-	10,983.00 19,983.00
Tax Underpayment/Overpayment <u>NMTIT Paid</u>	- 0- N/A-	10,983.00 19,983.00
Rebate Base:		10,983.00
Tax Imposed:	\$19,983.00	
Less Credit:	(9,000.00)	
Rebate Base:	10,983.00	

Amount of Rebate:

<u>Rebate Base:</u>	<u>\$10,983.00</u>		
<u>Rebate Amount:</u>	x 90%	-	-
<u>Amount of Rebate</u>	<u>9,884.70</u>		
<u>-4,241.50 [10,983-2500]x[50%]</u>		-	-
-		-	-
\$6,191.50	N/A		6,191.50

****Note:** Figures are for illustrative purposes only

(b) Reduction of Non-refundable Credit for PL 10-73 Educational Tax Credit. The amount of the nonrefundable credit allowed under (a) and as provided by law shall be reduced by the amount of educational tax credit, allowed under 4 CMC § 1205, that is claimed by a person during the taxable year. See § 70-40.6-040(f)(3).

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsection (a) were not designated. The Commission designated subsections (a)(1) and (a)(2).

The 1996 amendments deleted and replaced this section in its entirety with numerous amendments. The 1998 amendments amended subsection (a)(1) and added new subsection (b).

§ 70-40.6-220 Payment

The earnings tax is due and payable on or before April 15 after the end of the year during which the earnings were received or accrued. The tax is payable upon the filing of the annual earnings tax return as provided in § 70-40.6-225 of this subchapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-225 Reporting Requirements

(a) Requirement. Except as provided in subsection (b), every person subject to the earnings tax of 4 CMC § 1202 is required to file an "annual earnings tax return," form 1040NMI~~1040-ET~~, on or before April 15 after the end of the year during which the earnings were received or accrued. Appropriate copies of forms 1099 and any other necessary forms (e.g., form W-2CM or W-2 for excess deferred compensation) must be attached to form 1040-ET.

(b) Exception. Any person required to file an income tax return, form 1040EZ-CM, 1040A-CM or ~~form~~ 1040CM, for the taxable year need not file an annual earnings tax return, form

~~1040NMI~~1040-ET. Such form ~~1040NMI~~1040-ET is satisfied by the filing of a form 1040EZ-CM, 1040A-CM or ~~form~~ 1040CM covering the same taxable period.

(c) Extension. Taxpayers who have requested an automatic ~~46~~-month extension of time to file an annual individual income tax return for the same taxable year, are automatically granted the same amount of extension of time to file their form ~~1040NMI~~1040-ET; provided, however, that the taxpayer properly estimates his or her earnings tax due (~~calculated after the 4 CMC § 1205 nonrefundable credit~~) and pays such on or before April 15 of the year succeeding the taxable year to which the return relates.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: In subsection (a), the Commission moved the comma after “return” inside of the closing quotation mark.

§ 70-40.6-230 Calculation of Wage and Salary Tax and Earnings Tax

(a) The amount of tax imposed under the wage and salary tax of 4 CMC § 1201 and the earnings tax of 4 CMC § 1202 are determined in accordance with the schedule provided in 4 CMC § 1204. The wage and salary tax and the earnings tax are, however, separate and distinct taxes and therefore are computed separately. Thus, items of income subject to the wage and salary tax are not accumulated with items of income subject to the earnings tax to be taxed at the rate imposed under 4 CMC § 1204.

(b) Example No. 1. In ~~1995~~ 2017, taxpayer A receives wages and salaries in the amount of \$30,000 and earnings in the amount of \$2,000. Taxpayer A will pay a combined total of \$1,840 in earnings and wage and salary tax: \$1,800 of wage and salary tax (i.e. \$30,000 at 6%) and \$40 of earnings tax (i.e., \$2,000 at 2%). Taxpayer A ~~will~~ would not pay ~~\$2,240~~ taxes on the aggregate amount of as wages and salary and earnings tax for ~~1995~~ 2017 (i.e., \$32,000 at 7%).

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

Part 300 - Gross Revenue Tax

§ 70-40.6-301 Gross Revenue

(a) In General. Pursuant to 4 CMC chapter 3, there is imposed on every person a yearly tax on such person's total gross revenues. Except as provided in subsection (c) of this section, “gross revenues” means those items identified in 4 CMC § 1103(j) and subsection (b) of this section that

are derived in the course of carrying on a business as defined by 4 CMC § 1103(b) and § 70-40.6-030(a) of this subchapter. Items that are not derived in the course of carrying on a business are subject to the earnings tax or the wage and salary tax, as appropriate and applicable, imposed at 4 CMC § 1202 or 4 CMC § 1201, respectively.

(b) Gross Revenue. "Gross revenue" includes the following items that are derived in the course of carrying on a business as defined by 4 CMC § 1103(b):

(1) The total amount of money or the value of other consideration, without deduction for any expenses, received from:

(i) Selling or leasing, including the assignment of any lease, real property located in the Commonwealth;

(ii) Selling or leasing any "CNMI real property interest" as defined by 4 CMC § 1103(c);

(iii) Selling personal property, tangible or intangible, in the Commonwealth;

(iv) Leasing personal property, including the assignment of any lease, located in the Commonwealth;

(v) Performing services in the Commonwealth;

(2) The total amount of money or the value of other consideration, received as interest, dividends, royalties, or similar income earned in and derived from a person in the Commonwealth, without deduction for any expenses;

(3) Gross revenues of a partnership;

Example. Partnership ABCD has interest income from a savings account in the amount of \$200, amount realized from the sale of personal property in the amount of \$1,000, and gross revenues derived from the performance of legal services in the amount of \$10,000 all of which are deemed sourced within the CNMI. Partnership ABCD must report the entire \$11,200 as gross revenues and pay the gross revenue tax due thereon.

(4) That portion of the distributive share of income or gain of a partnership, as provided in the NMTIT, that is derived from the conduct of a business in the Commonwealth to a partner who is not an individual.

(i) Example No. 1. Partnership WXYZ is comprised of partner W, partner X, partner Y, and partner Z each having an equal interest in the partnership. Partner W and partner X are resident individuals of the Commonwealth, and partner Y and partner Z are domestic corporations. During the taxable year, Partnership WXYZ has gross revenues in the amount of \$1,000,000 and net income in the amount of \$100,000; each partner's distributive share of income from Partnership WXYZ determined under the NMTIT is \$25,000.

(ii) The partnership must report and pay the BGRT on the entire \$1,000,000. Partner Y and partner Z must report and pay the BGRT on each partner's distributive share of net income of Partnership WXYZ, i.e., \$25,000 per partner.

(5) "Gross revenues" of a corporation, including a subchapter S corporation as defined by the NMTIT;

(6) "Gross revenues" of a sole proprietorship or independent contractor;

(7) The total revenue received or accrued, whichever is earlier, and without deduction for any expenses, by a person who by ocean-going vessel delivers property or transports individuals in or out of the Commonwealth. The gross revenue included by this paragraph shall be no more than the amount which bears a reasonable relationship to the activity performed by the person in the Commonwealth;

(8) For inventory property, the amount of money or other consideration received by a resident as insurance proceeds for fire or other casualty, theft, embezzlement, and the like of such property; and

(9) For all property other than inventory property, the amount of money or other consideration received by a resident as insurance proceeds for fire or other casualty, theft, embezzlement, and the like of such property to the extent the amount of money or other consideration received exceeds the adjusted basis of such property.

(10) "Gross revenues" of a casino, casino operator, or casino licensee, ~~which~~ shall include the total of all:

- (i) Cash payments received;
- (ii) Credit card payments received;
- (iii) Checks received, whether collected or not;
- (iv) The face value of any credit instruments issued, whether paid or not;
- (v) Any other sum received as payment for credit extended or the issue of chips;

~~by a casino, casino operator, or casino licensee~~ for casino gaming activities, less the total amount paid out to patrons as winnings. For purposes of this section, no deduction shall be permitted for any credit card fees or discounts.

(c) Exclusions. "Gross revenue" shall not include the following items:

(1) Wages and salaries subject to the wage and salary tax imposed by 4 CMC § 1201;

(2) Gross revenues derived solely from the export sales of goods, resources, food, fish, or agricultural products produced or manufactured in the Commonwealth and delivered by the manufacturer or producer to the buyer outside the Commonwealth. However, a quarterly tax return must be filed regardless if no tax is due and a statement verifying the amount and destination covered by the exemption;

(3) Gross revenues derived from the sale of diesel fuel for use in any vessel's commercial operations that are primarily outside the territorial waters of the Commonwealth;

(4) Gross revenues earned by a Foreign Sales Corporation, as defined by 4 CMC §§ 1601, et seq., from its operations;

(5) Gross revenues earned by off-shore banking corporations as defined by 4 CMC § 1103(p);

(6) Gross revenues earned by a person granted tax- exempt status by the Division of Revenue and Taxation as an organization exempt under NMTIT §§ 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(8), 501(c)(10), 527 or a qualified plan under NMTIT § 401(a) to the extent allowed under 4 CMC § 1305(g) provided the person is in compliance with part 400 of this subchapter;

(7) Refunds and cash discounts allowed and taken;

(8) Money received and held in a fiduciary capacity;

(i) Example No. 1: Mr. Z owns a hotel. The price of a room per night is \$75.00 which does not include the 4 CMC § 1502 hotel occupancy tax in the amount of \$7.50. Mr. Z would report only the \$75.00 as gross revenue and would exclude the amount of the hotel occupancy tax collected in the amount of \$7.50 from the gross revenue tax.

(ii) Example No. 2: Mr. X owns a grocery store and sells an item to a customer for \$50.00. Mr. X would report gross revenues in the amount of \$50.00. In this case, the gross revenue tax is

imposed upon the sales price of the goods collected from the purchaser even if the gross revenue tax imposed on the sale is included within the sales price.

(iii) Example No. 3: The trustee of a bankruptcy estate established under title 11 of the United States Code holds property on behalf of the estate in the amount of \$100,000 to be distributed to creditors pursuant to title 11. The bankruptcy estate earned no income or gross revenues. Neither the bankruptcy estate nor the bankruptcy trustee is required to report any of the \$100,000 as gross revenue as this amount was held by the estate and the trustee in a fiduciary capacity only.

(iv) Example No. 4: Same facts as example no. 3 above except that the bankruptcy estate receives gross revenues in the amount of \$20,000. The bankruptcy estate is required to report the \$20,000 as gross revenue.

(9) De Minimis, "gross revenues" which combined with all other gross revenues of a person for a taxable year do not exceed \$5,000 in total for a complete taxable year.

(d) Additional Gross Revenues.

(1) Gross revenues shall also include those NMTIT deductions allowed under 4 CMC § 1706(a) and § 70-40.6-645 of this subchapter. Such amounts shall be combined with the person's total gross revenues for the year in the last month ~~quarter~~ of the person's taxable year.

(2) Example. For the taxable year, Partnership MNOP derives gross revenues from the performance of services within the Commonwealth in the amount of \$500,000. The entire \$500,000 is subject to both the gross revenue tax and the NMTIT. For purposes of the NMTIT, Partnership MNOP is entitled to a deduction in the amount of \$1,000 under § 179 for the purchase of an asset not within the Commonwealth no portion of which substantially benefits business activities conducted in the Commonwealth. Partnership MNOP is required to report gross revenues in the amount of \$501,000 (i.e., \$500,000 plus \$1,000) and pay the gross revenue tax thereon in the amount of \$20,040.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsections (b)(4), (c)(8) and (d) were not designated. The Commission designated subsections (b)(4)(i) and (ii), (c)(8)(i) through (iv), and (d)(1) and (d)(2).

The notice of adoption for the 1995 regulations changed the proposed language of subsections (b)(4)(i) and (ii). The 1996 amendments amended subsection (b)(4)(ii) and deleted former subsections (c)(9) and (c)(10). The Commission redesignated former subsection (c)(11) as (c)(9).

§ 70-40.6-305 In the Commonwealth

For purposes of the gross revenue tax, gross revenues are deemed derived from "in the Commonwealth" if the gross revenues are "sourced within the Commonwealth" pursuant to 4 CMC ~~§ 1103(u)~~ and 4 CMC § 1712. All other issues as to whether gross revenues are derived "in the Commonwealth" for purposes of the gross revenue tax shall be made in accordance with the sourcing rules of the Northern Marianas Territorial Income Tax at §§ 861, et seq. to the extent consistent with the gross revenue tax.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-310 Monthly ~~Quarterly~~ Payments

Every business subject to the gross revenue tax imposed by chapter 3 of 4 CMC shall report all such gross revenue received during each month and pay the gross revenue tax due thereon as provided in this subchapter no later than the last day of the following month. The monthly periods and due dates are as follows:

~~Every business subject to the gross revenue tax imposed by chapter 3 of 4 CMC shall report all such gross revenue received during each quarter and pay the gross revenue tax due thereon as provided in this subchapter no later than the last day of the month following the close of the quarter to wit on or before the following days:~~

<u>Month</u>	<u>Due Date</u>
<u>January</u>	<u>February 28</u>
<u>February</u>	<u>March 31</u>
<u>March</u>	<u>April 30</u>
<u>April</u>	<u>May 31</u>
<u>May</u>	<u>June 30</u>
<u>June</u>	<u>July 31</u>
<u>July</u>	<u>August 31</u>
<u>August</u>	<u>September 30</u>
<u>September</u>	<u>October 31</u>
<u>October</u>	<u>November 30</u>
<u>November</u>	<u>December 31</u>
<u>December</u>	<u>January 31</u>

<u>Quarter</u>	<u>Due Date</u>
<u>First Quarter</u>	<u>April 30</u>
<u>Second Quarter</u>	<u>July 31</u>
<u>Third Quarter</u>	<u>October 31</u>
<u>Fourth Quarter</u>	<u>January 31</u>

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-315 Rate of Tax

(a) General Gross Revenue Tax. Except as provided in 4 CMC § 1302, or § 1303, ~~or § 1304~~, a yearly tax is imposed on a person's total gross revenues at the rates specified in 4 CMC § 1301.

For purposes of the monthly reporting and payment of tax, the annual gross revenue level is allocated proportionately to a monthly gross revenue level that is equal to one-twelfth of the annual level. Furthermore, each monthly revenue level is cumulative of all previously monthly level during the taxable year.

(b) Agriculture Producers and Fishing. In lieu of the gross revenue tax imposed by 4 CMC § 1301, the tax on persons engaged in the business of producing agricultural products in the Commonwealth or fishing in the Commonwealth, or its waters, for dietary consumption shall be at the rate of one percent of gross revenues in excess of \$20,000.

For purposes of the monthly reporting and payment of tax, the annual gross revenue level is allocated proportionately to a monthly gross revenue level that is equal to one-twelfth of the annual level. Furthermore, each monthly revenue level is cumulative of all previously monthly level during the taxable year.

(c) Manufacturers and Wholesalers. In lieu of the gross revenue tax imposed by 4 CMC § 1301, the ~~tax on revenues of~~ persons engaged in the business of manufacturing and selling goods at wholesale shall be taxed at the maximum rate of 2% as provided in 4 CMC § 1303.

For purposes of the monthly reporting and payment of tax, the annual gross revenue level is allocated proportionately to a monthly gross revenue level that is equal to one-twelfth of the annual level. Furthermore, each monthly revenue level is cumulative of all previously monthly level during the taxable year.

All persons subject to 4 CMC § 1303 shall maintain separate records and accounts showing the gross revenue from manufacturing and selling, selling at wholesale, selling at retail, and other business activities.

~~(1) — If all the gross revenues of a business are derived solely from manufacturing and selling of goods at wholesale, the entire amount of such gross revenues will be taxed at the maximum rate of 2% pursuant to 4 CMC § 1303.~~

~~(2) — If all the gross revenues of a business are not derived solely from manufacturing and selling goods at wholesale, the combined gross revenues not derived from manufacturing and selling goods at wholesale shall be taxed at the rates imposed under 4 CMC § 1301 while the gross revenues derived solely from manufacturing and selling goods at wholesale shall be taxed at the maximum rate of 2% pursuant to 4 CMC § 1303.~~

(d) Examples.

(i) Example No. 1. Wholesaler Co., Inc. derives gross revenues from the sale of goods to a retailer for ~~resell~~ resale in the amount of \$100,000 ~~for first quarter 1995~~ in tax year 2020. During ~~this quarter~~ tax year 2020, Wholesaler Co., Inc. also derives gross revenues from the direct sale of goods to consumers in the amount of \$50,000. Wholesaler Co., Inc. is required to pay gross revenue tax on the \$100,000 at the rates established under § 1303. Wholesaler Co., Inc. is required to pay gross revenue tax on the \$50,000 at the rates established under § 1301.

(ii) Example No. 2. Manufacturing Co., Inc. manufactures goods for ~~sell~~ sale to retailers and directly to consumers. For the taxable year, Manufacturing Co., Inc. derives \$800,000 gross revenues from the sale of such manufactured goods to retailers and \$125,000 gross revenues from the sale of such manufactured goods directly to consumers. The ~~entire \$925,000~~ \$800,000 of proceeds received for the sale of goods manufactured by Manufacturing Co., Inc. to retailers is

subject to the gross revenue tax rates established under § 1303. The \$125,000 derived from sales of manufactured goods directly to consumers is subject to the gross revenue tax rates established under § 1301. Thus, Manufacturing Co., Inc. shall pay gross revenue tax in the amount of \$18,500.

(3) ~~All persons subject to 4 CMC § 1303 shall maintain separate records and accounts showing the gross revenue from manufacturing and selling, selling at wholesale, selling at retail, and other business activities.~~

(d) ~~Banks, Banking Institutions, Building and Loan Associations, and other Financial Institutions. In lieu of the gross revenue tax imposed by 4 CMC § 1301, the tax on the operation of any bank, banking institution, building and loan association, and other lending institutions shall be equivalent to the greater of five percent of the net income received from such business or three percent of gross revenues. The calculation of net income for purposes of 4 CMC § 1304 shall be determined pursuant to 4 CMC § 1304(b).~~

(e) Disincentives to Off-island Investments.

(1) In addition to the above and pursuant to 4 CMC § 1706(a), the gross revenue tax shall be imposed on all taxpayers in the amount of any deduction allowed to such taxpayer under the NMTIT sections enumerated in 4 CMC § 1706(e) and § 70-40.6-645(b) of this subchapter.

(2) In addition to the above and pursuant to 4 CMC § 1706(b), the gross revenue tax shall be imposed on all taxpayers in the amount of any credit allowed to such taxpayer under the NMTIT sections enumerated in 4 CMC § 1706(e) and § 70-40.6-645(b) of this subchapter.

(3) Example. For taxable year 20201995, ABC Corporation derives gross revenues in the amount of \$250,000 all of which are sourced within the Commonwealth. The entire \$250,000 is subject to the gross revenue tax and the NMTIT. Under the NMTIT, ABC Corporation is entitled to a credit in the amount of \$75 under § 38 for an asset purchased off-island no portion of which substantially benefits business activities conducted in the Commonwealth. ABC Corporation is required to pay gross revenue tax in the amount of \$6,325 (i.e., \$6,250 (\$250,000 x 2.5%) plus \$75).

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsections (c)(2) and (e) were not designated. The Commission designated subsections (c)(2)(i) and (ii) and (e)(1) and (e)(2).

The notice of adoption for the 1995 regulations changed the proposed language of subsection (c)(2)(ii).

§ 70-40.6-320 Tax Tables -- 4 CMC § 1301

The annual business gross revenue tax imposed in 4CMC §1301 is based on the annual business gross revenue amount and the annual tax rate schedule as set forth below.

General Business – Annual Tax Table

<u>Annual Business Gross Revenue Amount</u>	<u>Annual Tax Rate</u>
---	------------------------

<u>From</u>	<u>To</u>	
<u>\$0</u>	<u>\$5,000.00</u>	<u>0% of Gross Revenue</u>
<u>\$5,000.01</u>	<u>\$50,000.00</u>	<u>1.5% of Gross Revenue</u>
<u>\$50,000.01</u>	<u>\$100,000.00</u>	<u>2.0% of Gross Revenue</u>
<u>\$100,000.01</u>	<u>\$250,000.00</u>	<u>2.5% of Gross Revenue</u>
<u>\$250,000.01</u>	<u>\$500,000.00</u>	<u>3.0% of Gross Revenue</u>
<u>\$500,000.01</u>	<u>\$750,000.00</u>	<u>4.0% of Gross Revenue</u>
<u>\$750,000.01</u>	<u>and over</u>	<u>5.0% of Gross Revenue</u>

For purposes of the monthly business gross revenue tax return, the annual gross revenue amount is allocated year-to-date at one-twelve per month beginning with the month of January of the taxable year.

Examples:

1. The annual gross revenue amount range for the 1.5% is from \$5,000.01 to \$50,000.00. For the January allocation for the 1.5% gross revenue range, a one-twelve allocation results in the allocated gross revenue range from \$416.68 (\$5,000.01 x 1/12) to \$4,166.67 (\$50,000.00 x 1/12).
2. The same as in example 1 but for the month of February. The year-to-date monthly allocation is two-twelve (one-twelve allocated for January plus one-twelve for the month of February) of the annual gross revenue range. Therefore, the February 1.5% gross revenue range results in the amount from \$833.34 (\$5,000.01 x 2/12) to \$8,333.33 (\$50,000.00 x 2/12).
3. The same as in example 1 but for the month of October. The year-to-date monthly allocation is ten-twelve (nine-twelve allocated for the months of January through September plus one-twelve for the month of October) of the annual gross revenue range. Therefore, the October 1.5% gross revenue range results in the amount from \$4,166.68 (\$5,000.01 x 10/12) to \$41,666.67 (\$50,000.00 x 10/12).

For purposes of the monthly BGR tax, the following BGR monthly tax rate table is provided below.

General Business Monthly Tax Table
Gross revenue amount for each monthly period is year-to-date (cumulative) amount

<u>January</u>		<u>February</u>		<u>March</u>		<u>April</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
<u>0</u>	<u>416.67</u>	<u>0</u>	<u>833.33</u>	<u>0</u>	<u>1,250.00</u>	<u>0</u>	<u>1,666.67</u>	<u>0%</u>
<u>416.68</u>	<u>4,166.67</u>	<u>833.34</u>	<u>8,333.33</u>	<u>1,250.01</u>	<u>12,500.00</u>	<u>1,666.68</u>	<u>16,666.67</u>	<u>1.5%</u>
<u>4,166.68</u>	<u>8,333.33</u>	<u>8,333.34</u>	<u>16,666.67</u>	<u>12,500.01</u>	<u>25,000.00</u>	<u>16,666.67</u>	<u>33,333.33</u>	<u>2.0%</u>
<u>8,333.34</u>	<u>20,833.33</u>	<u>16,666.68</u>	<u>41,466.67</u>	<u>25,000.01</u>	<u>62,500.00</u>	<u>33,333.34</u>	<u>83,333.33</u>	<u>2.5%</u>
<u>20,833.34</u>	<u>41,666.67</u>	<u>41,666.67</u>	<u>83,333.33</u>	<u>62,500.01</u>	<u>125,000.00</u>	<u>83,333.34</u>	<u>166,666.67</u>	<u>3.0%</u>
<u>41,466.68</u>	<u>62,500.00</u>	<u>83,333.34</u>	<u>125,000.00</u>	<u>125,000.01</u>	<u>187,500.00</u>	<u>166,666.68</u>	<u>250,000.00</u>	<u>4.0%</u>
<u>62,500.01</u>	<u>and over</u>	<u>125,000.01</u>	<u>and over</u>	<u>187,500.01</u>	<u>and over</u>	<u>250,000.01</u>	<u>and over</u>	<u>5.0%</u>

<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	
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<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>Tax Rate</u>
0	2,083.33	0	2,500.00	0	2,916.67	0	3,333.33	0%
2,083.34	20,833.33	2,500.01	25,000.00	2,916.68	29,166.67	3,333.34	33,333.33	1.5%
20,833.34	41,666.67	25,000.01	50,000.00	29,166.68	58,333.33	33,333.34	66,666.67	2.0%
41,666.68	104,166.67	50,000.01	125,000.00	58,333.34	145,833.33	66,666.68	166,666.67	2.5%
104,166.68	208,333.33	125,000.01	250,000.00	145,833.34	291,666.67	166,666.68	333,333.33	3.0%
208,333.34	312,500.00	250,000.01	375,000.00	291,666.68	437,500.00	333,333.34	500,000.00	4.0%
312,500.01	and over	375,000.01	and over	437,500.01	and over	500,000.01	and over	5.0%

<u>September</u>		<u>October</u>		<u>November</u>		<u>December</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
0	3,750.00	0	4,166.67	0	4,583.33	0	5,000.00	0%
3,750.01	37,500.00	4,166.68	41,666.67	4,583.34	45,833.33	5,000.01	50,000.00	1.5%
37,500.01	75,000.01	41,666.68	83,333.33	45,833.34	91,666.67	50,000.01	100,000.00	2.0%
75,000.01	187,500.00	83,333.34	208,333.33	91,666.68	229,166.67	100,000.01	250,000.00	2.5%
187,500.01	375,000.00	208,333.34	416,666.67	229,166.68	458,333.33	250,000.01	500,000.00	3.0%
375,000.01	562,500.00	416,666.68	625,000.00	458,333.34	687,500.00	500,000.01	750,000.00	4.0%
562,000.01	and over	625,000.01	and over	687,500.01	and over	750,000.01	and over	5.0%

Except as provided by 4 CMC § 1302, § 1303, or § 1304, the quarterly gross revenue tax imposed shall be at the following rates:

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First Quarter

Table I (Jan. 1 – Mar. 31)

Gross revenue from January 1 to March 31

<u>From</u>	<u>To</u>	<u>Rate</u>
0	1,250.00	0
1,250.01	12,500.00	1.5%
12,500.01	25,000.00	2.0%
25,000.01	62,500.00	2.5%
62,500.01	125,000.00	3.0%
125,000.01	187,500.00	3.5%
187,500.01	and over	5.0%

-
Second Quarter

Table II (Jan. 1 – June 30)

Cumulative gross revenue from January 1 to June 30

<u>From</u>	<u>To</u>	<u>Rate</u>
0	2,500.00	0
2,500.01	25,000.00	1.5%
25,000.01	50,000.00	2.0%
50,000.01	125,000.00	2.5%
125,000.01	250,000.00	3.0%
250,000.01	375,000.00	3.5%
375,000.01	and over	5.0%

Third Quarter

Table III (Jan. 1 – Sept. 30)

Cumulative gross revenue from January 1 to September 30

<u>From</u>	<u>To</u>	<u>Rate</u>
0-	3,750.00	0-
3,750.01	37,500.00	1.5%
37,500.01	75,000.00	2.0%
75,000.01	187,500.00	2.5%
187,500.01	375,000.00	3.0%
375,000.01	562,500.00	3.5%
562,500.01	and over	5.0%

Fourth Quarter

Table IV (Jan. 1 – Dec. 31)

Cumulative Gross Revenue from January 1 to December 31

<u>From</u>	<u>To</u>	<u>Rate</u>
0-	5,000.00	0-
5,000.01	50,000.00	1.5%
50,000.01	100,000.00	2.0%
100,000.01	250,000.00	2.5%
250,000.01	500,000.00	3.0%
500,000.01	750,000.00	3.5%
750,000.01	and over	5.0%

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-325 Tax Tables -- 4 CMC § 1302 Agriculture Producers and Fishing

(a) Rate. The annual gross revenue tax imposed on persons engaged in the business of producing agricultural products in the Commonwealth or fishing in the Commonwealth, or its waters, for dietary consumption shall be at the rate of 1% of gross revenues in excess of \$20,000.

(b) Exclusion. Agricultural producers and fisheries are allowed an exclusion of \$1,666.67 each month, cumulative over the course of the year, to a total of \$20,000 per annum. The total exclusion of \$20,000 will be allowed on the fourth quarterly return for the taxable year.

Agriculture Producers and Fishing – Annual Tax Table

<u>Annual Business Gross Revenue Amount</u>		<u>Annual Tax Rate</u>
<u>From</u>	<u>To</u>	
<u>\$0</u>	<u>\$20,000.00</u>	<u>No Tax</u>

<u>\$20,000.01</u>	<u>and over</u>	<u>1.0% of Gross Revenue over \$20,000</u>
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For purposes of the monthly business gross revenue tax return, the annual gross revenue amount is allocated year-to-date at one-twelve per month beginning with the month of January of the taxable year.

Examples:

1. The annual gross revenue amount for the 1.0% tax rate is the gross revenue amount over \$20,000.00. For the January allocation of the, a one-twelve allocation results in the allocated gross revenue amount over \$1,166.66 (\$20,000.01 x 1/12). The taxable amount is the amount in excess of \$1,166.66.
2. The same as in example 1 but for the month of February. The year-to-date monthly allocation is two-twelve (one-twelve allocated for January plus one-twelve for the month of February) of the annual gross revenue amount. Therefore, the February 1.0% gross revenue results in the amount in excess of \$3,333.34 (\$20,000.01 x 2/12). The taxable amount is the amount in excess of \$3,333.34.
3. The same as in example 1 but for the month of October. The year-to-date monthly allocation is ten-twelve (nine-twelve allocated for the months of January through September plus one-twelve for the month of October) of the annual gross revenue. Therefore, the October 1.0% gross revenue results in the amount from \$16,666.68 (\$20,000.01 x 10/12). The taxable amount is the amount in excess of \$16,666.68.

For purposes of the monthly BGR tax, the following BGR tax rate table is provided.

Agriculture Producers and Fishing – Monthly Tax Table

Gross revenue amount for each monthly period is year-to-date (cumulative) amount

<u>January</u>		<u>February</u>		<u>March</u>		<u>April</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
0	1,666.66	0	3,333.33	0	5,000.00	0	6,666.66	0%
Amount over 1,666.66		Amount over 3,333.34		Amount over 5,000.00		Amount over 6,666.66		1.0%

<u>May</u>		<u>June</u>		<u>July</u>		<u>August</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
0	8,333.33	0	10,000.00	0	11,666.66	0	13,333.33	0%
Amount over 8,333.33		Amount over 10,000.00		Amount over 11,666.66		Amount over 13,333.33		1.0%

<u>September</u>		<u>October</u>		<u>November</u>		<u>December</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
0	15,000.00	0	16,666.66	0	18,333.33	0	20,000.00	No Tax
Amount over 15,000.00		Amount over 16,666.66		Amount over 18,333.33		Amount over 20,000.00		1.0%

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-330 Tax Tables -- 4 CMC § 1303 Manufacturers and Wholesalers

The annual business gross revenue tax imposed in 4 CMC §1303 is based on the annual business gross revenue amount and the annual tax rate schedule for that amount as set forth below.

Manufacturers and Wholesalers – Annual Tax Table

<u>Annual Business Gross Revenue Amount</u>		<u>Annual Tax Rate</u>
<u>From</u>	<u>To</u>	
<u>\$0</u>	<u>\$5,000.00</u>	<u>No Tax</u>
<u>\$5,000.01</u>	<u>\$50,000</u>	<u>1.5% of Gross Revenue</u>
<u>\$50,000.01</u>	<u>and over</u>	<u>2.0% of Gross Revenue</u>

For purposes of the monthly business gross revenue tax return, the annual gross revenue amount is allocated year-to-date at one-twelve per month beginning with the month of January of the taxable year.

Examples:

1. The annual gross revenue amount range for the 1.5% is from \$5,000.01 to \$50,000.00. For the January allocation for the 1.5% gross revenue range, a one-twelve allocation results in the allocated gross revenue range from \$416.68 ($\$5,000.01 \times 1/12$) to \$4,166.67 ($\$50,000.00 \times 1/12$).
2. The same as in example 1 but for the month of February. The year-to-date monthly allocation is two-twelve (one-twelve allocated for January plus one-twelve for the month of February) of the annual gross revenue range. Therefore, the February 1.5% gross revenue range results in the amount from \$833.34 ($\$5,000.01 \times 2/12$) to \$8,333.33 ($\$50,000.00 \times 2/12$).
3. The same as in example 1 but for the month of October. The year-to-date monthly allocation is ten-twelve (nine-twelve allocated for the months of January through September plus one-twelve for the month of October) of the annual gross revenue range. Therefore, the October 1.5% gross revenue range results in the amount from \$4,166.68 ($\$5,000.01 \times 10/12$) to \$41,666.67 ($\$50,000.00 \times 10/12$).

For purposes of the monthly BGR tax return, the following BGR tax rate table is provided.

Manufacturers and Wholesalers – Monthly Tax Table

Gross revenue amount for each monthly period is year-to-date (cumulative) amount

<u>January</u>		<u>February</u>		<u>March</u>		<u>April</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	

0	416.67	0	833.33	0	1,250.00	0	1,666.66	No Tax
416.68	4,166.67	833.34	8,333.33	1,250.01	12,500.00	1,666.67	16,666.67	1.5%
4,166.68	And over	8,333.34	and over	12,500.01	and over	16,666.68	and over	2.0%

+

<u>May</u>		<u>June</u>		<u>July</u>		<u>August</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
0	2,083.33	0	2,500.00	0	2,916.67	0	3,333.33	No Tax
2,083.34	20,833.33	2,500.01	25,000.00	2,916.68	29,166.67	3,333.34	33,333.33	1.5%
20,833.34	and over	25,000.01	and over	29,166.68	and over	33,333.34	and over	2.0%

<u>September</u>		<u>October</u>		<u>November</u>		<u>December</u>		<u>Tax Rate</u>
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
0	3,750.00	0	4,166.67	0	4,583.33	0	5,000.00	No Tax
3,750.01	37,500.00	4,166.68	41,666.67	4,583.34	45,833.33	5,000.01	50,000.00	1.5%
37,500.01	and over	41,666.68	and over	45,833.34	and over	50,000.01	and over	2.0%

The quarterly gross revenue tax imposed on persons engaged in manufacturing and selling goods shall be at the following rates:

First Quarter

Table I (Jan. 1 – Mar. 31)

Cumulative Gross Revenue from January 1 to March 31

<u>From</u>	<u>To</u>	<u>Rate</u>
0	1,250.00	0
1,250.01	12,500.00	1.5%
12,500.01	and over	2.0%

Second Quarter

Table II (Apr. 1 – Jun. 30)

Cumulative Gross Revenue from January 1 to June 30

<u>From</u>	<u>To</u>	<u>Rate</u>
0	2,500.00	0
2,500.01	25,000.00	1.5%
25,000.01	and over	2.0%

Third Quarter

Table III (Jan. 1 – Sept 30)

Cumulative gross revenue from January 1 to September 30

<u>From</u>	<u>To</u>	<u>Rate</u>
0	3,750.00	0
3,750.01	37,500.00	1.5%
37,500.01	and over	2.0%

Fourth Quarter

Table IV (Jan. 1–Dec. 31)

Cumulative gross revenue from January 1 to December 31

<u>From</u>	<u>To</u>	<u>Rate</u>
0	5,000.00	0
5,000.01	50,000.00	1.5%
50,000.01	and over	2.0%

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-335 Tax Table — 4 CMC § 1304 Banks, Banking Institutions and Building and Loan Associations

~~The quarterly gross revenue tax imposed on the operation of any bank, banking institution, building and loan association, and other lending institutions shall be equivalent to the greater of five percent of the net income received from such business or three percent of gross revenues.~~

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-340 Non-refundable Credit

(a) In General. Except as provided in subsection (c) and pursuant to and as provided by 4 CMC § 1308 ~~as amended by PL 9-59 and PL 10-73~~, there will be allowed against the tax imposed on gross revenues (or any other Commonwealth tax or fee imposed under other divisions or titles of the Commonwealth code in lieu of such tax) a nonrefundable credit against the tax imposed on Commonwealth source income under subtitle A of the NMTIT pursuant to chapter 7 of title 4 of the Commonwealth code. However, no such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return. Additionally, the non-refundable shall be reduced for education tax credit taken against BGRT, WST, and or ET.

(b) Quarterly Estimated NMTIT Payments.

(1) In order for 4 CMC § 1307 to apply to quarterly estimated NMTIT payments, the NMTIT and gross revenue tax must both be due within the period covered by the BGRT payment. The non-refundable BGRT tax credit will be accepted provided all information and documentation is submitted as required by the Division of Revenue and Taxation.

(2) This subsection may be illustrated by the following examples:

(i) Example No.1

BGRT due <u>paid</u> (1st quarter, 1996 <u>2020</u>)	\$3,000.00
BGRT non-refundable credit allocation <u>available</u>	\$3,000.00
Amount BGRT paid	\$3,000.00

NMTIT estimated tax payment due	\$5,000.00
BGRT non-refundable credit allocated to NMTIT	3,000.00
Amount of NMTIT estimated tax payment	2,000.00

(ii) Example No. 2

BGRT due <u>paid</u> (1st quarter, 1996 <u>2020</u>)	\$8,000.00
BGRT non-refundable credit allocation <u>available</u>	\$5 <u>8</u> ,000.00
Amount BGRT paid	\$8,000.00

NMTIT estimated tax payment due	\$5,000.00
BGRT non-refundable credit allocated to NMTIT	\$5,000.00
Amount of NMTIT estimated tax payment	-0-

(c) Reduction of Non-refundable Credit for PL 10-73 Educational Tax Credit. The amount of the nonrefundable credit allowed under (a) and as provided by law shall be reduced by the amount of educational tax credit, allowed under 4 CMC § 1306, that is claimed by a person during the taxable year. See § 70-40.6-040(e)(3).

(i) Example No. 1

<u>BGRT due (1st quarter, 2020)</u>	<u>\$8,000.00</u>
<u>Educational Tax Credit deducted</u>	<u>\$1,000.00</u>
<u>Amount BGRT paid</u>	<u>\$7,000.00</u>
<u>BGRT non-refundable credit available</u>	<u>\$7,000.00</u>

<u>NMTIT estimated tax payment due</u>	<u>\$15,000.00</u>
<u>BGRT non-refundable credit allocated to NMTIT</u>	<u>\$7,000.00</u>
<u>Amount of NMTIT estimated tax payment</u>	<u>-\$8,000.00-</u>

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsection (b) were not designated. The Commission designated subsections (b)(1) and (b)(2).

The notice of adoption for the 1995 regulations changed the proposed language of subsections (a), (b)(2)(i) and former subsection (c)(1)(i). The 1996 amendments deleted and replaced this section in its entirety with numerous amendments. The 1998 amendments added new subsection (c) and amended subsection (a).

§ 70-40.6-345 ~~Quarterly~~ Monthly Returns

(a) Filing Requirement and Due Date. Every person subject to the gross revenue tax of 4 CMC chapter 3 must file a ~~quarterly~~ monthly return as specified in subsection (b) on or before the last day of the ~~month~~ following month ~~the end of the quarter during~~ on which the gross revenues were received or accrued to wit on or before the following days:

<u>Month</u>	<u>Due Date</u>
<u>January</u>	<u>February 28</u>
<u>February</u>	<u>March 31</u>
<u>March</u>	<u>April 30</u>
<u>April</u>	<u>May 31</u>
<u>May</u>	<u>June 30</u>
<u>June</u>	<u>July 31</u>
<u>July</u>	<u>August 31</u>
<u>August</u>	<u>September 30</u>
<u>September</u>	<u>October 31</u>
<u>October</u>	<u>November 30</u>
<u>November</u>	<u>December 31</u>
<u>December</u>	<u>January 31</u>

<u>Quarter</u>	<u>Due Date</u>
<u>First Quarter</u>	<u>April 30</u>
<u>Second Quarter</u>	<u>July 31</u>
<u>Third Quarter</u>	<u>October 31</u>
<u>Fourth Quarter</u>	<u>January 31</u>

Businesses in every category are required to file ~~quarterly~~ monthly tax returns reporting their gross revenue even though no gross revenue tax liability is due.

(b) Return Requirement.

(1) To report the gross revenue tax due under 4 CMC § 1301, persons are required to file the form OS-3105, “business gross revenue tax ~~quarterly~~ monthly return.”

(2) To report the gross revenue tax due under 4 CMC § 1302 on agricultural producers and fisheries, persons are required to file the form OS-3105, “business gross revenue tax ~~quarterly~~ monthly for agricultural producers & fisheries.”

(3) To report the gross revenue tax due under 4 CMC § 1303 on manufacturers and wholesalers, persons are required to file the form OS-3105, “business gross revenue tax ~~quarterly~~ monthly return for manufacturing and wholesaling.”

(4) ~~To report the gross revenue tax due under 4 CMC § 1304 on banks, banking institutions and building and loan associations, persons are required to file the form "gross revenue tax quarterly return—banks, banking institutions and building and loan association."~~

Modified, 1 CMC § 3806(f), (g).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: In subsections (b)(1) through (b)(4), the Commission moved the final periods inside of the closing quotation marks.

Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-350 Refund of Overpayment of Gross Revenue Tax

A refund of an overpayment of gross revenue tax will be made after the ~~fourth quarterly~~ December monthly return has been filed and reviewed and a claim for refund has been made in accordance with 4 CMC § ~~1809~~ 18104 on the form or application for refund prescribed by the Secretary. In the alternative, the taxpayer can elect for the overpayment to be refunded as provided on the tax form.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-355 Combined Business Activities

(a) Requirement. Pursuant to 4 CMC § 1301(b), a person who during the year conducts two or more separate and distinct businesses, sells more than one property or is entitled to distributive shares from more than one partnership (other than to a partner who is a resident individual), shall pay the yearly gross revenue tax on the combined total "gross revenue" as defined in § 70-40.6-301 of this subchapter that are derived from all such activities.

(b) Filing and Payment.

(1) For purpose of subsection (a), the combined gross revenue of all the businesses derived from sources both within and without the Commonwealth, including the gross revenue of branches and subsidiaries from within and without the Commonwealth, ~~would~~ must be reported on one return. Gross revenue which is taxed under 4 CMC § 1302, and/or § 1303, ~~and § 1304~~ shall be reported on a return prescribed for each section, and the taxes paid therefrom.

(2) Notwithstanding subsection (a) and (b)(1), the gross revenue tax on such combined businesses ~~would~~ shall be paid only on the combined total "gross revenues" as defined in § 70-40.6-301 of this subchapter that are derived from all such businesses.

(c) Domestic Corporations. Domestic corporations must report all gross revenue of their branches and subsidiaries located both within and without the Commonwealth on its quarterly gross revenue tax return and must pay the gross revenue tax on the combined total "gross revenues" as defined in § 70-40.6-301 of this subchapter that are derived from such branches and subsidiaries. Nothing within this provision shall subject gross revenues to the gross revenue tax which are not included within the definition of gross revenues in § 70-40.6-301 of this subchapter.

(d) Examples.

(1) Example No. 1: Mr. Walker owns a retail store in San Antonio, a garage in Chalan Kanoa, a snack bar in San Vicente, and a night club in Garapan. ~~For the first quarter 1995~~ In tax year 2020, the retail store has gross revenues in the amount of \$10,000.00, the garage has gross revenues in the amount of \$50,000.00, the snack bar has gross revenues in the amount of \$12,500.00, and the night club has gross revenues in the amount of \$500,000.00. Mr. Walker shall report the combined gross revenue of all the sales from the retail store, garage, snack bar, and night club in the amount of \$58572,500.00 on one return for the quarter and shall pay gross revenue tax on \$58572,500.00 in the amount of \$22,900 ~~1,462.50~~ (i.e., ~~(58572,500) x (2.54%)~~).

(2) Example No. 2: ABC Corporation, a domestic corporation, has branch offices located in Saipan and Guam. ~~For first quarter 1995~~ In tax year 2020, the Saipan branch of ABC Corporation has gross revenues ~~for the quarter~~ in the amount of \$100,000, all of which all is derived from sources within the Commonwealth. The Guam branch has gross revenues ~~for the quarter~~ in the amount of \$250,000, of which \$175,000 is derived from sources outside the Commonwealth while the remaining \$75,000 is derived from sources within the Commonwealth.

In filing its ~~quarterly~~ gross revenue tax return for ~~first quarter 1995~~ 2020, ABC Corporation is required to report the entire \$350,000 of gross revenues derived from both the Saipan and Guam branch. However, ABC Corporation is required only to pay gross revenue tax on the gross revenues derived from sources within the Commonwealth, i.e., \$175,000 (\$100,000 from Saipan branch and \$75,000 from Guam branch). The remaining \$175,000 of gross revenues derived from the Guam branch is not subject to the gross revenue tax.

(3) Example No. 3: Same facts as example no. 2 except that ABC Corporation filed its ~~quarterly~~ gross revenue tax return for ~~first quarter 1995~~ 2020 reporting and paying tax on the entire \$350,000. On September 30, ~~1996~~ 2021, ABC Corporation files an amended gross revenue tax return for ~~1995~~ 2020 and a claim for refund of the gross revenue tax paid on the \$175,000 which was not deemed sourced within the CNMI. As ABC Corporation has timely filed a claim for refund of the gross revenue tax paid, ABC Corporation is entitled to a refund of the gross revenue tax paid on the \$175,000 which was not deemed sourced within the Commonwealth.

(4) Example No. 4: Same facts as example no. 3 except that ABC Corporation filed its refund claim on March 30, ~~1997~~ 2022, rather than on September 30, ~~1996~~ 2021. ABC Corporation was required to file its refund claim within one year after the end of the calendar year in which the amount to be refunded was paid, i.e., prior to December 31, ~~1996~~ 2021. As ABC Corporation's ~~1997~~ 2022 refund claim filed was untimely, ABC Corporation will not be entitled to the refund of gross revenue tax paid ~~for in 1995~~ 2020 on the \$175,000.

(5) Example No. 5: DEF Corporation, a domestic corporation, owns a retail store in Garapan. In 2020 ~~For the first quarter 1995~~, the retail store earns gross revenues in the amount of \$600,000. DEF Corporation also has interest income in the amount of \$42,000 and sells ~~properties~~ property receiving gross revenues in the amount of \$250,000 ~~5,000~~. DEF Corporation must reported the combined gross revenues from its retail sales, interest income, and sales of property in the

cumulative amount of ~~\$792,000~~67,000 in ~~on~~ one return ~~for the quarter~~ and pay gross revenue tax on the ~~\$792,000~~67,000 in the amount of ~~\$39,600~~2,040 (i.e., (~~\$792,000~~67,000) x (3-~~05.0~~0%)).

(c) The gross revenue amount from each activity must be stated separately in the schedule as provided on the tax form by indicating the activity code and the respective amount for the activity. If the activity code is not available, the "All Other" code must be used and the activity specified.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsection (d) were not designated. The Commission designated subsections (d)(1) through (d)(5).

Public Law 17-30 (effective Feb. 16, 2011) amended 4 CMC § 1307 to require taxes on gross revenue to be paid on a monthly basis.

§ 70-40.6-360 Uncollectible Accrued Gross Revenues

(a) General Rule. A taxpayer may deduct amounts of bad debt from the total gross revenue used to calculate the amount of yearly tax levied under 4 CMC § 130I on a December monthly business gross revenue tax return (or a final return as described in §70-40.6-365). The amount of gross revenue deducted must be charged off as uncollectible on the books and records of the taxpayer at the time the bad debt becomes worthless and can only be deducted on the final return for the year during which the bad debt is written off as uncollectible in the claimant's books and records.

(b) Bad Debt defined. For purposes of this section, the term "bad debt" means any portion of a debt created or acquired (as the case may be) in connection with a trade or business of the taxpayer that is eligible to be claimed as a deduction under section 166 of the NMTIT.

(c) Prior inclusion in gross revenue required. Bad debts shall not be allowed as a deduction under this section unless the revenues such items represent have been included in a business gross revenue tax return for the year for which the deduction as a bad debt is claimed or for a prior taxable period

(d) Requirement of Statement. A statement of facts substantiating any deduction claimed under this section on account of bad debts shall accompany the tax return. Any claim for a bad debt deduction under this section shall be supported by the evidence required by the Division of Revenue and Taxation.

(e) Subsequent Payments. If a consumer, business, or other person pays all or part of a bad debt with respect to which a taxpayer claimed a deduction under this section, the taxpayer shall report the amounts received in the monthly return for the month payments were received and pay the tax due.

(f) Casino Licensees. A bad debt does not include any unpaid balance on a credit instrument extended for gaming credit by a casino licensee unless:

- (1) The casino licensee submits a certificate of compliance from the Commonwealth Casino Commission, with respect to each credit instrument, certifying that it has complied with the requirements of NMIAC §17510.1-565(h), relating to treatment of credit for purposes of computing gross revenue, as provided in the Commonwealth Casino Commission Regulations adopted pursuant to 4 CMC § 2314;
- (2) The Commonwealth Casino Commission has determined, as required by NMIAC § 175-10.1-565(h), that the public interest will be served if the unpaid balance is not included in gross revenue of the licensee; and
- (3) The debt otherwise qualifies under this section.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 40318 (Oct. 28, 2017); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

~~§ 70-40.6-365 Businesses Dissolving During a Taxable Year~~

~~Any person who dissolves a business during a taxable year is required to make a final return no later than fifteen days following the dissolution of the business. In addition to all other applicable penalties, a penalty of ten percent of the tax due for the quarter preceding the quarter during which the business dissolved shall be added for each thirty days or fraction thereof elapsing between the due date of the final return and the date on which it is actually filed; provided, however, that the minimum penalty shall be twenty-five dollars. Interest of fifteen percent per annum shall also be imposed on the total amount paid after the deadline prescribed in this section.~~

Modified, 1 CMC § 3806(e), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-370 Sale or Transfer of Business

(a) Requirement. If a business is sold or transferred by one owner to another, the seller and the buyer are both required to file a separate gross revenue tax return allocating gross revenues received or accrued prior to and after the sale from the business, respectively. Such a transfer occurs, for example, if a sole proprietor forms a partnership or a corporation or if a business is sold from one owner to another.

(b) Statement. If there has been a change of ownership or other transfer of the business during the quarter, the buyer is required to attach to the first gross revenue tax return a statement showing the following:

- (1) The name of the transferor;
- (2) Whether the transferor is an individual, a partnership, corporation, or other entity;
- (3) The nature of the change or transfer; and
- (4) The date of such change or transfer.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

§ 70-40.6-375 Tax on Marijuana Retailers

(a) In General. 4 CMC § 1310 imposes, in addition to the tax imposed by 4 CMC § 1301(a), a yearly surtax on total gross revenues of “marijuana retailers,” as defined in the Taulamwaar Sensible CNMI Cannabis Act of 2018, in the amount of 15%, except gross revenue attributable to the sale of medical marijuana shall be taxed in the amount of 7.5%.

(b) Limitations. The Tax on Marijuana Retailers is only imposed on gross revenues derived from the sale of “marijuana items,” “marijuana,” “marijuana products,” and “marijuana extracts,” as defined in 4 CMC § 53005.

(c) Gifts. Gifting of “marijuana items,” “marijuana,” “marijuana products,” and “marijuana extracts,” as defined in 4 CMC § 53005, shall be presumed to be a means of evading the Tax on Marijuana Retailers and the Division of Revenue and Taxation will impute gross revenues subject to tax at a retail value commensurate with the actual price received for products of like quality, character, and use in the area. If there are no sales of products of like quality, character, and use in the same area, then the Division shall establish a reasonable value based on sales of products of like quality, character, and use in other areas of the Commonwealth, taking into consideration any other relevant factors.

(c) Filing Requirement and Due Date. Every person subject to the Tax on Marijuana Retailers must file a monthly return as specified in subsection (d) on or before the last day of the month following the month in which gross revenues were received or accrued. Filing due dates are as follows:

Return Month

January
February
March
April
May
June
July
August
September
October
November
December

Return Due Date

February 28
March 31
April 30
May 31
June 30
July 31
August 31
September 30
October 31
November 30
December 31
January 31

Businesses are required to file monthly tax returns reporting gross revenues even if no tax is due.

(d) Return Requirement. To report tax on marijuana retailers under 4 CMC § 1310, persons are required to file the Form OS-3105C.

Part 1700 - ~~Miscellaneous Provisions~~ Cannabis Excise Tax

70-40.6-1701 Cannabis Excise Tax

(a) In General. Under 4 CMC § 1402, a cannabis excise tax is imposed on marijuana producers at the rate of 15% of the gross revenues from the first sale of cannabis or marijuana grown by a producer. The sale of any product that contains any amount of cannabis or marijuana is subject to the Cannabis Excise Tax on the full selling price of the product. The Division of Revenue and Taxation may determine the selling price of the cannabis or marijuana when the seller and purchaser are affiliated persons, when the sale and purchase of cannabis or marijuana is not an arm's length transaction, or when cannabis or marijuana is transferred by a producer to the producer's marijuana lounge, marijuana retail facility, marijuana wholesale facility, or marijuana processing facility and a value is not established for the cannabis or marijuana. The value determined by the Division shall be commensurate with the actual price received for products of like quality, character, and use in the area. If there are no sales of cannabis or marijuana of like quality, character, and use in the same area, then the Division shall establish a reasonable value based on sales of products of like quality, character, and use in other areas of the Commonwealth, taking into consideration any other relevant factors.

(b) Liability for Tax. The Cannabis Excise Tax is solely the responsibility of the marijuana producer who makes the first sale and is not the responsibility of a subsequent purchaser, marijuana retailer, marijuana lounge, marijuana wholesaler, or marijuana processor. Persons subject to the Cannabis Excise Tax may, however, reimburse themselves for their tax liability by separately stating the tax liability as an additional charge on the invoice.

(c) Filing Requirement and Due Date. Every person subject to the Cannabis Excise Tax must file a monthly return as specified in subsection (d) on or before the last day of the month following the month in which gross revenues were received or accrued. Filing due dates are as follows:

Return Month

January
February
March
April
May
June
July
August
September
October
November
December

Return Due Date

February 28
March 31
April 30
May 31
June 30
July 31
August 31
September 30
October 31
November 30
December 31
January 31

Businesses are required to file monthly tax returns reporting gross revenues even if no tax is due.

(d) Return Requirement. To report Cannabis Excise Tax under 4 CMC § 1402, persons are required to file the Form OS-3105C.

(e) Evidence of Payment of Tax. Both the marijuana producer and the first purchaser shall maintain documentation relating to the transaction subject to the Cannabis Excise Tax. Such evidence may be the purchase invoice, so long as the invoice shows the name and license number of the marijuana producer, name and license number of first purchaser, the transaction price, the category and quantity of products being sold, and the date of sale.

(f) Books and Records for Cannabis Excise Tax. Copies of all books and records required to be maintained pursuant to NMAIC § 70-40.6-130I must be maintained by each marijuana producer, marijuana retailer, marijuana lounge, marijuana wholesaler, and marijuana processor for a period of at least three years.

Part 1800 - Miscellaneous Provisions

§ 70-40.6-1801 Severability

If any provision of the regulations in this subchapter shall be held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE CHCC SCHOOL AND CHILD CARE FACILITIES AND COMMUNICABLE DISEASE RULES AND REGULATIONS

INTENDED ACTION TO ADOPT THESE PROPOSED REVISIONS TO THE RULES AND REGULATIONS: The Commonwealth Healthcare Corporation (CHCC) intends to adopt as permanent the attached Proposed Revision to the Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Revision to the CHCC School and Child Care Facilities, and Communicable Disease Rules and Regulations will become effective 10 days after compliance with 1 CMC § 9102 and 9104(a) or (b). (adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: CHCC has developed and adopted and can amend the School and Child Care Facilities Regulations, and Communicable Disease Rules and Regulations as approved by the Board of Trustees in accordance with the law. 3 CMC Section 2864(c).

THE TERMS AND SUBSTANCE: The CHCC School and Child Care Facilities Regulations, and Communicable Disease Rules and Regulations provide guidance on all aspects of Health Certificates, and Vaccination and Immunization. The regulation history for the pertinent School and Child Care Facilities Regulations subject to this amendment, § 140-20.4-201 Health Certificates, is as follows: Adopted 25 Com. Reg. 21051 (Aug. 22, 2003); Proposed 25 Com. Reg. 20427 (July 15, 2003). The regulation history for the pertinent Communicable Disease Rules and Regulations subject to this amendment, § 140-10.3-365 Vaccination and Immunization, is as follows: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

THE SUBJECTS AND ISSUES INVOLVED: The Revisions of Chapter 140-20 § 140-20.4-201 School and Child Care Facilities, and Chapter 140-10 § 140-10.3-365 Communicable Diseases Rules and Regulation (please see attached).

DIRECTIONS FOR FILING AND PUBLICATION: Notice of Proposed Revisions to the Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

OFFICE OF THE ATTORNEY GENERAL
Civil Division

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10/28/21

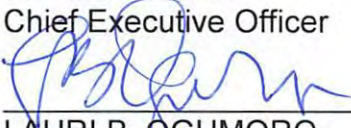
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district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)). Copies are available upon request from Heather Pangelinan, Administrator for Mother, Infant, Child, and Adolescent Health.

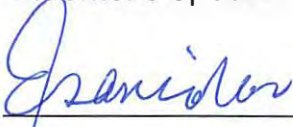
TO PROVIDE COMMENTS: Send or deliver your comments to Esther Muna, *Attn: Revision to CHCC School and Child Care Facilities Regulations, and Communicable Diseases Rules and Regulations*, at the above address, via fax or email esther.muna@dph.gov.mp. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

These proposed revisions were approved by the CHCC Board of Trustees on this 20th day of October, 2021.

Submitted by:  10/28/21
ESTHER MUNA
Date

 10/28/2021
LAURI B. OGUMORO
Date
Chairperson, CHCC Board of Trustees

Received by:  10/28/21
MATHILDA A. ROSARIO
Date
Governor's Special Assistant for Administration

Filed and
Recorded by:  10.29.21
ESTHER R.M. SAN NICOLAS
Date
Commonwealth Registrar

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

Dated the 29 day of OCT., 2021.


EDWARD E. MANIBUSAN
Attorney General

P.O. Box 500409 CK, Saipan, MP 96950
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§ 140-20.4-201 Health Certificates

(a) Any person who desires to work in, or attend, a school/child care facility shall be physically examined by the Department of Public Health or a licensed physician in private practice and shall be issued a health certificate stating that the applicant employee or student is free of pathogens and parasites and other forms of communicable diseases under PL 6-10, article 6, §§ 1161-1165.

(b) No person shall be allowed to attend to any client of a school/child care facility who has been found to be infected with any form of communicable disease.

(c) Every school and child care facility shall obtain and maintain evidence on file for ready inspection that every child has had all vaccinations or immunizations, including but not limited to diphtheria; pertussis, tetanus, polio, measles (rubeola), mumps, and rubella (German measles), hepatitis B, Covid-19 and its variants (to the extent the child is eligible to receive the vaccine), or against other communicable disease as the Secretary shall, by regulation, require. However, if an exemption from vaccination or immunization has been granted under NMIAC § 140-10.3-365 (1st published, Commonwealth Register vol. 13, no. 9, page 7858, 7867, 9/15/91), such documentation of the exemption must be readily available for inspection.

(d) The health certificate shall be valid for one year, and shall be renewed annually thereafter from date of issuance. The employee/student shall undergo another physical examination before issuance of a new health certificate.

(e) All health certificates of the employees working for, or the children attending, a school/child care facility shall be maintained in the facility's file readily accessible for inspectors.

§ 140-10.3-365 Vaccination and Immunization

No child shall be enrolled in any public or private school within the Commonwealth unless evidence is presented to the enrolling officer that the child has had all such vaccinations or immunizations, including but not limited to diphtheria, pertussis, tetanus, polio, measles (rubeola), mumps and rubella (German measles, hepatitis B), Covid-19 and its variants (to the extent the child is eligible to receive the vaccine), or against other communicable disease as the Director shall, by regulation, require, except that exemption may be granted upon certification by a parent or legal guardian that such vaccination or immunization would be against their religious belief or a child that has been certified by a licensed medical doctor that said child shall be exempt from this section where medical contraindication to receiving a specific vaccine exists. The Director may require vaccination and immunization of any person or persons suspected as carriers of a communicable disease upon entering or leaving the Commonwealth which the Director believes may present a risk to the public health of the Commonwealth. The Director, in case of an epidemic or to control a possible epidemic of a communicable disease, may direct that the general population be vaccinated and immunized against said disease.



Commonwealth Healthcare Corporation

Commonwealth gi Sangkattan na Islas Mariñas

I Lower Navy Hill Road Navy Hill, Saipan, MP 96950



NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AMENDA SIHA GI ISKUELA YAN FASILIDÁT INADAHIN PÁTGUN YAN AREKLAMENTU YAN REGULASION I TATATMI NA CHOTNUT SIHA GI CHCC

I MA'INTENSIONA NA AKSION PARA U ADÁPTA ESTI I MANMAPROPONI NA TINILAICA GI AREKLAMENTU YAN REGULASION SIHA: I Commonwealth Healthcare Corporation (i CHCC) ha intensiona para u adápta komu petmanienti i mañechettun na Manmaproponi na Tinilaika gi Areklamentu yan Regulasion siha, sigun gi maneran i Ákton Administrative Procedure, 1 CMC § 9104(a). I tinilaika gi Iskuela yan Fasilidát Inadahin Pátgun, yan Areklamentu yan Regulasion i Tatatmi na Chotnut siha gi CHCC umifektibu gi halum dies (10) dihas dispues di i tinattiyin nu otdin yan i 1 CMC § 9102 yan 9104(a) pat (b). (i inadáptan yan publikasion gi halum Rehistran Commonwealth. (1 CMC § 9105(b))

ATURIDÁT: I CHCC madibelop yan ma'adápta yan siña ha amenda i Iskuela yan Fasilidát Inadahin Pátgun, yan Areklamentu yan Regulasion i Tatatmi na Chotnut siha gi CHCC komu inaprueba ni i Kuetpun Trustees ni sigun yan i lai. 3 CMC Seksiona 2864(c).

I TEMA YAN I SUSTANSIAN I PALÁBRA SIHA: I Regulasion Iskuela yan Fasilidát Inadahin Pátgun siha, yan Areklamentu yan Regulasion i Tatatmi na Chotnut siha gi CHCC mampribení gihida gi todú klásin Settifikasion Hinemlu', yan Vaccination yan Immunization. I istoria regulasion para i pettanesin Iskuela yan Regulasion Fasilidát Inadahin Pátgun suhetu gi esti na amenda, § 140-20.4-201 Settifikasion Hinemlu', komu mantinattiyi: Ma'adápta 25 Com. Reg. 21051 (Agustu 22, 2003); Maproponi 25 Com. Reg. 20427 (Huliu 15, 2003). I istorian regulasion para pettanesin Areklamentu yan Regulasion Tatatmi na Chotnut siha sumuhetu gi esti na amenda, § 140-10.3-365 Vaccination yan Immunization, komu mantinattiyi: Ma'adápta 15 Com. Reg. 11091 (Nubembri 15, 1993); Emergency yan Ma'adápta 15 Com. Reg. 11074 (Nubembri 15, 1993) (umifektibu para 120 na dihas disdi Oktubri 26, 1993); Ma'adápta 15 Com. Reg. 10706 (Huniu 15, 1993); Maproponi 13 Com. Reg. 7858 (Septembri 15, 1991).

I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: I Tinilaika gi Pátti 140-20 § 140-20.4-201 i Iskuela yan Fasilidát Inadahin Pátgun siha, yan Pátti 140-10 § 140-10.3-365 Areklamentu yan Regulasion Tatatmi na Chotnut siha (put fabot taitai i mañechettun na dokumetu).

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

DIREKSION PARA U MAPO'LU YAN PARA U MAPUPBLIKA: I nutisia put i Manmaproponi na Tinilaika siha gi Regulasion debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni manmaproponi yan nuebu na manma'adapta na regulasion siha (1 CMC § 9102(a)(1)) ya u mapega gi halum kumbinienti na lugåt siha gi halum civic center yan gi halum ufisinan gubietnamentu gi kada distritun senadot, parehu gi Inglis yan i dos prinsipåt na lingguåhin natibu (1 CMC § 9104(a)(1)). Managuaha kopia siha yanggin manrikuesta hão gi ufisinan Atministradot para Hinemlu' Nãna, Neni, Påtgun, yan Manhobin gi as Heather Pangelinan.

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hanão pat intrega hålum i upiñom-mu siha guatu gi as Esther Muña, *Attn: I Tinilaika gi Regulasion Iskuela yan Fasilidåt Inadahin Påtgun, yan i Areklamentu yan Regulasion i Tatatmi na Chotnut siha gi CHCC*, gi sanhilu' na address, via fax osino email esther.muna@dph.gov.mp. Put fabot na'hålum i infotmasion, tinstigu pat agumentu-mu siha. (1 CMC § 9104(a)(2)).

Esti i manmaproponi na tinilaika siha maninaprueba ni Kuetpun Trustees i CHCC gi esti na diha 20 gi Oktubri, 2021.

Nina'hålum as: 
ESTHER MUNA
Chief Executive Officer

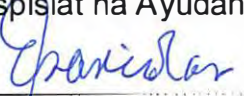
10/28/21
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LAURI B. OGUMORO
Kabesiyu, Kuetpun Trustees i CHCC

10/28/2021
Fetcha

Rinisibi as: 
MATHILDA A. ROSARIO
Ispisiåt na Ayudanti para i Atministrasion

10/28/21
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Pine'lu yan
Ninota as: 
ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

10.29.21
Fetcha

Sigun i 1 CMC § 2153 (e), (Inaprueban Abugådu Hiniråt i regulasion siha ni para u macho'gui kumu fotma) yan i 1 CMC § 9104 (a) (3) (inahentan inaprueban Abugådu Hiniråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient i ligåt ginin i CNMI Abugådu Hiniråt yan debi na u mapupblika, 1 CMC § 2153 (f) (publikasion areklamentu yan regulasion siha).

Mafetcha gi diha 29 gi OCT, 2021.


EDWARD E. MANIBUSAN
Abugådu Hiniråt

§ 140-20.4-201 Health Certificates

(a) Any person who desires to work in, or attend, a school/child care facility shall be physically examined by the Department of Public Health or a licensed physician in private practice and shall be issued a health certificate stating that the applicant employee or student is free of pathogens and parasites and other forms of communicable diseases under PL 6-10, article 6, §§ 1161-1165.

(b) No person shall be allowed to attend to any client of a school/child care facility who has been found to be infected with any form of communicable disease.

(c) Every school and child care facility shall obtain and maintain evidence on file for ready inspection that every child has had all vaccinations or immunizations, including but not limited to diphtheria; pertussis, tetanus, polio, measles (rubeola), mumps, and rubella (German measles), hepatitis B, Covid-19 and its variants (to the extent the child is eligible to receive the vaccine), or against other communicable disease as the Secretary shall, by regulation, require. However, if an exemption from vaccination or immunization has been granted under NMIAC § 140-10.3-365 (1st published, Commonwealth Register vol. 13, no. 9, page 7858, 7867, 9/15/91), such documentation of the exemption must be readily available for inspection.

(d) The health certificate shall be valid for one year, and shall be renewed annually thereafter from date of issuance. The employee/student shall undergo another physical examination before issuance of a new health certificate.

(e) All health certificates of the employees working for, or the children attending, a school/child care facility shall be maintained in the facility's file readily accessible for inspectors.

§ 140-10.3-365 Vaccination and Immunization

No child shall be enrolled in any public or private school within the Commonwealth unless evidence is presented to the enrolling officer that the child has had all such vaccinations or immunizations, including but not limited to diphtheria, pertussis, tetanus, polio, measles (rubeola), mumps and rubella (German measles, hepatitis B), Covid-19 and its variants (to the extent the child is eligible to receive the vaccine), or against other communicable disease as the Director shall, by regulation, require, except that exemption may be granted upon certification by a parent or legal guardian that such vaccination or immunization would be against their religious belief or a child that has been certified by a licensed medical doctor that said child shall be exempt from this section where medical contraindication to receiving a specific vaccine exists. The Director may require vaccination and immunization of any person or persons suspected as carriers of a communicable disease upon entering or leaving the Commonwealth which the Director believes may present a risk to the public health of the Commonwealth. The Director, in case of an epidemic or to control a possible epidemic of a communicable disease, may direct that the general population be vaccinated and immunized against said disease.



Commonwealth Healthcare Corporation

Commonwealth Téel Falúw kka Efáng Ilól Marianas



ARONGORONGOL TOULAP REEL PPWOMWOL LIIWEL NGÁLI IIMWAL RÁGHEFISCH YE CHCC ME LELIYAL PIIGHÁTIL ÁÁT ME ALLÉGHÚL ME MWÓGHUTUGHUTUL TÉEL SEMWAAY

MÁNGEMÁNGIL MWÓGHUT REEL REBWE Adóptáali PPWOMWOL LIIWEL NGÁLI ALLÉGHÚL ME MWÓGHUTUGHUTÚL: Commonwealth Healthcare Corporation (CHCC) re mángemángil rebwe Adóptáali bwe ebwe le lléghló ppwomwol liiwel ikka re aschuulong ngáli alléghúl me mwóghutughutúl, sáangi mwóghutughutúl Administrative Procedure Act, I CMC § 9104(a). Liiwel ngáli limwal Rághefish ye CHCC me Leliyal Piighátíl Áát me Alléghúl me Mwóghutughutúl Téel Semwaay kkaal ebwe bwunguló seigh (10) ráal mwiril aal compliance ngáli 1 CMC § 9102 ngáre 9104(a) pat (b). Adóptáaliyal me akkatééwowul me Ilól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: CHCC aa féerú me Adóptáali me emmwela ebwe liiweli limwal Rághefish ye CHCC me Leliyal Piighátíl Áát me Alléghúl me Mwóghutughutúl Téel Semwaay kkaal sáangi aar abwungubwung me llegh Board of Trustees/Toulap. 3 CMC Tálil 2826(c).

KKAPASAL ME AWEEWEL: CHCC aa féerú me Adoptaaliyal me emmwela ebwe liiweli limwal Rághefish ye CHCC me Leliyal Piighátíl Áát me Alléghúl me Mwóghutughutúl Téel Semwaay e afalafala alongal pappidil Health, Vaccination me Immunization. Uruwowul mwóghutughut reel iimwal Rághefish me Leliyal Piighátíl Áát eyoor sáangi liiwel ye, § 140-20.4-201 pappidil Health, bwal ngáli: Tingór pappid yeel sáangi 25 Com. Reg. 21051 (Elúwel 22, 2003); Pwomwol 25 Com. Reg. 20427 (Wuun 15, 2003). Uruwowul Mwóghutughut reel Alléghúl me Mwóghutughutúl Téel Semwaay eyoor sáangi liiwel ye, § 140-10.3-365 Vaccination me Immunization, bwal ngáli: Adóptáaliyal 15 Com. Reg. 11091 (Nobembre 15, 1993); Emergency me Adóptáaliyal 15 Com. Reg. 11074 (Nobembre 15, 1993) (ebwel ebwughúw ruweegh rállil sáangi Ottobre 26, 1993); Adóptáaliyal 15 Com. Reg. 10706 (Unnio 15, 1993); Pwomwol 13 Com. Reg. 7858 (Maan 15, 1991).

KKAPASAL ME AUTOL: Liiwelil Chapter 140-20 § 140-20.4-201 limwal Rághefish me Leliyal Piighátíl Áát me Chapter 140-10 § 140-10.3-365 Alléghúl me Mwóghutughutúl Téel Semwaay (amwuri pappid kkemwu e appasch)

AFAL REEL AMMWELIL AKKATÉÉWOWUL: Arongorongal Pwomwol Liiwel Ngáli Mwóghutughut ebwe akkatééwow me Ilól Commonwealth Register llól tálil pwomwol me ffél mwóghutughut ikka raa Adoptaaliyal (1 CMC § 9102(a)(I) me ebwe appaschetá igha e ghatch iye me civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwaliyaasch (1 CMC § 9104(a)(1)). Kkopiyaal pappid yeel emmwál ubwe tingór sáangi Fleather Pangelinan, Administradoraal, Mother, Infant, Child and Adolescent Health.

REEL ISIISILONGOL KKPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Esther Muna, *Attn: Revision to CHCC School and Child Care Facilities Regulations, and Communicable Diseases Rules and Regulations*, reel féléfél iye e lo weiláng, fax ngáre email li esther.muna@dph.gov.mp. Ebwe toolong ischil kkapas llól cliigh (30) ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, mángemáng ngáre angiingi. (1 CMC § 9104(a)(2)).

Ppwomwol liiwel kkaal raa átirowa sáangi CHCC Board of Trustees wóól 20th Sarobwél, 2021.

Isáliyalong:	 ESTHER MUNA Chief Executive Officer	<u>10/28/21</u> Ráál
	 LAURI OGUMORO Chairperson, CHCC Board of Trustees	<u>10/28/2021</u> Ráál
Bwughiyal:	 MATHILDA A. ROSARIO Special Assistant ngáli Administration	<u>10/28/21</u> Ráál
Ammwelil:	 ESTHER R.M. SAN NICOLAS Commonwealth Registrar	<u>10.29.21</u> Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG bwe aa llégheló reel fféerúl bwe ebwe arongowow) me 1 CMC § 9104(a)(3) sáangi átirowal AG) reel ppwomwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me átirow bwe aa llégheló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikillátiw wóól 29 ráálil Oct, 2021.


EDWARD E. MANIBUSAN
Soulemelemil Allégh Lapalap

§ 140-20.4-201 Health Certificates

(a) Any person who desires to work in, or attend, a school/child care facility shall be physically examined by the Department of Public Health or a licensed physician in private practice and shall be issued a health certificate stating that the applicant employee or student is free of pathogens and parasites and other forms of communicable diseases under PL 6-10, article 6, §§ 1161-1165.

(b) No person shall be allowed to attend to any client of a school/child care facility who has been found to be infected with any form of communicable disease.

(c) Every school and child care facility shall obtain and maintain evidence on file for ready inspection that every child has had all vaccinations or immunizations, including but not limited to diphtheria; pertussis, tetanus, polio, measles (rubeola), mumps, and rubella (German measles), hepatitis B, Covid-19 and its variants (to the extent the child is eligible to receive the vaccine), or against other communicable disease as the Secretary shall, by regulation, require. However, if an exemption from vaccination or immunization has been granted under NMIAC § 140-10.3-365 (1st published, Commonwealth Register vol. 13, no. 9, page 7858, 7867, 9/15/91), such documentation of the exemption must be readily available for inspection.

(d) The health certificate shall be valid for one year, and shall be renewed annually thereafter from date of issuance. The employee/student shall undergo another physical examination before issuance of a new health certificate.

(e) All health certificates of the employees working for, or the children attending, a school/child care facility shall be maintained in the facility's file readily accessible for inspectors.

§ 140-10.3-365 Vaccination and Immunization

No child shall be enrolled in any public or private school within the Commonwealth unless evidence is presented to the enrolling officer that the child has had all such vaccinations or immunizations, including but not limited to diphtheria, pertussis, tetanus, polio, measles (rubeola), mumps and rubella (German measles, hepatitis B), Covid-19 and its variants (to the extent the child is eligible to receive the vaccine), or against other communicable disease as the Director shall, by regulation, require, except that exemption may be granted upon certification by a parent or legal guardian that such vaccination or immunization would be against their religious belief or a child that has been certified by a licensed medical doctor that said child shall be exempt from this section where medical contraindication to receiving a specific vaccine exists. The Director may require vaccination and immunization of any person or persons suspected as carriers of a communicable disease upon entering or leaving the Commonwealth which the Director believes may present a risk to the public health of the Commonwealth. The Director, in case of an epidemic or to control a possible epidemic of a communicable disease, may direct that the general population be vaccinated and immunized against said disease.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-20

SUBJECT: RENEWING THE AUTHORITY OF THE SECRETARY OF FINANCE TO REPROGRAM OR TRANSFER FUNDS FROM ACCOUNTS OF ANY DEPARTMENT, AGENCY, OFFICE, BOARD, COMMISSION, CORPORATION, INSTRUMENTALITY OR OTHER ENTITY OF ANY BRANCH OF THE COMMONWEALTH GOVERNMENT IN ORDER TO MEET THE THREAT OF COVID-19.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in the People's Republic of China in December of 2019. As of September 16, 2021, more than 226 million cases of COVID-19 have been reported world-wide resulting in more than 4.66 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have severe underlying medical conditions. The potential impact of COVID-19 on the CNMI cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of the people of the CNMI.

WHEREAS, on January 29, 2020, the Governor issued Executive Order 2020-01 declaring a state of significant emergency regarding the COVID-19 outbreak that ordered the Commonwealth Healthcare Corporation to implement quarantine and preventive containment measures and directed the Secretary of Finance and the Special Assistant for Management and Budget to assess the fiscal impact of the outbreak on the government's budget.

WHEREAS, on March 16, 2020, following discovery of COVID-19 infected individuals on Guam, the Governor issued Executive Order 2020-04 declaring a State of Public Health Emergency and a continued Declaration of a State of Significant Emergency for the CNMI due to the significant and imminent threat of harm to the community, environment and people of the CNMI.

WHEREAS, on March 18, 2020, the Governor issued Executive Order 2020-05 which authorized the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of COVID-19.

WHEREAS, the declaration of a state of public health emergency and continued declaration of a state of significant emergency embodied in Executive Order 2020-04, as amended, has been recently renewed by Executive Order 2021-19.

WHEREAS, meeting the COVID-19 threat requires a "whole of government" approach such as what the government utilizes in responding to and recovering from typhoons. This requires the

utilization or potential utilization of all government agencies, personnel, facilities, equipment and other resources as necessary to respond to the COVID-19 threat.

WHEREAS, because the COVID-19 pandemic has brought our tourism industry to a standstill, it has depressed economic activity and drastically reduced tax revenue. Such a reduction in revenue jeopardizes the government's ability to meet the COVID-19 threat by limiting the government's ability to utilize all necessary personnel, facilities and equipment due to lack of funds.

WHEREAS, renewing the authority of the Secretary of Finance to access, reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government, including autonomous or independent entities, in order to fund the government's "whole of government" approach to the prevention and mitigation of the COVID-19 threat is a reasonably necessary response in order to ensure that the government is able to meet the COVID-19 threat.

NOW THEREFORE, I, RALPH DLG. TORRES, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, § 10 of the Commonwealth Constitution, the Homeland Security and Emergency Management Act of 2013, 1 CMC § 20144, the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, Executive Order 2020-04, as amended and renewed, order and direct as follows:

1. Executive Order 2020-05, and all powers, duties and responsibilities embodied in that executive order, is hereby renewed and shall thus continue for an additional thirty (30) days.
2. This renewal shall take effect immediately and remain in effect for thirty (30) days from the effective date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-05 shall remain in effect for thirty (30) days from the date of this Executive Order.

SIGNED AND PROMULGATED ON THIS 17th day of September, 2021


RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:) PUA Case No. 21-0044
)
Soawanee N. Witer,)
)
Appellant,) ORDER DENYING REQUEST TO
) REOPEN;
v.) FINAL AGENCY ACTION
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on June 9, 2021 at 9:00 a.m. at the Administrative Hearing Office. On June 15, 2021, the undersigned issued an Administrative Order affirming the Department's Disqualifying Determination, dated December 30, 2020 and April 15, 2021. Specifically, Appellant was found to be ineligible for PUA for the period of March 15, 2020 to March 13, 2021 because she was not a U.S. citizen, non-citizen national, or qualified alien eligible for federal public benefits at the time she filed her claims.

On September 29, 2021, Appellant filed a request to reopen their case stating that her application for permanent residency was recently approved and valid for the period of August 19, 2021 to August 18, 2031. For the reasons stated below, Appellant's request to reopen is hereby **DENIED**.

II. LEGAL STANDARD

Pandemic Unemployment Assistance ("PUA") and Federal Pandemic Unemployment Compensation ("FPUC") was intended to support workers and employment affected by the COVID-19 pandemic. Pursuant to HAR §12-5-93(h)-(i), a decision may be reopened by written motion of the parties' or the Administrative Hearing Officer's own motion. If a case is reopened, "the [Administrative Hearing Officer] shall schedule the matter for further hearing and notify the parties to the appeal" HAR §12-5-93(i). A decision can only be reopened once by a particular

1 party. HAR §12-5-93(j). In the event that an application to reopen is denied or parties have further
2 objections to a subsequent decision, the parties may obtain judicial review. *Id.*

3 III. DISCUSSION

4 There is insufficient basis to reopen Appellant's case. While the undersigned recognizes that
5 Appellant's status has recently changed, this change does not affect her eligibility for prior PUA
6 claims because it is not part of the relevant period or denial period.¹ Here, it is clear that Appellant
7 was not a qualified alien at the time she filed her claims. As discussed in the Administrative Order,
8 Appellant was claiming PUA benefits during the period of March 15, 2020 to March 13, 2021.
9 The recent change to Appellant's immigration status is not retroactive and only effective, as of
10 her approval on August 19, 2021. Since the change in status has no effect on Appellant's prior
11 PUA claims, there was no unwarranted deprivation of benefits and reopening the case is not
warranted.

12 IV. CONCLUSION

13 In conclusion, there is no showing that Appellant is eligible for benefits during the time period
14 of March 15, 2020 to March 13, 2021. Appellant does not provide any new information to justify
15 reopening this case or reversing the decision. Accordingly, based on the applicable law and
16 circumstances of this case, Appellant's request to reopen is **DENIED**. The Administrative Order,
17 issued June 15, 2021, and this present Order Denying Request to Reopen shall constitute a **FINAL**
AGENCY DECISION.

18 In the event a party aggrieved by this Order would like to dispute or contest this decision, said
19 party may seek judicial review with the CNMI Superior Court under the local Administrative
20 Procedures Act within 30 days of this Order. *See* 1 CMC § 9112.

21
22 So ordered this 29th day of September, 2021.

23 /s/

24 **JACQUELINE A. NICOLAS**
25 Administrative Hearing Officer
26

27
28 ¹ PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Appellant status to permanent resident was not effective to August 19, 2021.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE**



In Re Matter of:) **PUA Case No. 21-0126**
)
Jennifer Angello,)
)
Appellant,) **ADMINISTRATIVE ORDER**
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on August 19, 2021, September 15, 2021, and October 6, 2021 at 9:00 a.m. at the Administrative Hearing Office. Appellant Jennifer Angello (“Appellant”) was not present but represented by her Authorized Representative, John Angello. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Appellee” or “Department”) was present and represented by PUA Coordinator Coleen Diaz.

Witnesses:

1. Dina A. Tenorio, Manager at Latte Marine Diving & Salvage, LLC

Exhibits:

1. Exhibit 1: Copy of the Appellant’s Application Snapshot, filed January 1, 2021;
2. Exhibit 2: Copy of Appellant’s Weekly Certifications for the period of December 27, 2020 to March 6, 2021;
3. Exhibit 3: Copy of Department’s Monetary Determination, dated January 4, 2021;
4. Exhibit 4: Copy of Department’s Disqualifying Determination, dated June 11, 2021;
5. Exhibit 5: Copy of Appellant’s Request to file an Appeal, filed June 17, 2021;
6. Exhibit 6: Copy of the Notice of Hearing issued June 17, 2021;
7. Exhibit 7: Copy of Appellant’s Self-Certification, dated April 28, 2021;
8. Exhibit 8: Copy of BPC Email Communication, dated August 10, 2021;

9. Exhibit 9: Communication w/ Authorized Representative;
10. Exhibit 10: NMTI Communication w/ Department; and
11. Exhibit 11: LMDS Communication dated August 19, 2021.

For the reasons stated below, the Department's Determination dated June 11, 2021 is **AFFIRMED**. Appellant is not eligible for benefits from December 27, 2020 to September 4, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL BACKGROUND & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on June 11, 2021. On June 17, 2021 Appellant filed the present appeal and the matter was scheduled for a hearing. As stated in the Notice of Hearing, the issues

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 on appeal are: (1) whether Appellant is eligible for PUA; and (2) whether an overpayment
2 occurred and funds should be returned.

3 IV. FINDINGS OF FACT

4 In consideration of the evidence provided and credibility of witness testimony, the
5 undersigned issues the following findings of fact:

- 6 1. During the COVID-19 pandemic, Appellant was employed as a seasonal full-time
7 employee at Amazon Com Services, LLC ("Amazon"), located in Iowa, USA.
8 Appellant's title was Warehouse Employee and her employment was scheduled from late
9 November to the late December 2020, or longer if necessary.⁵
- 10 2. After working approximately two weeks, Appellant's roommate was diagnosed with
11 COVID-19 and Amazon required Appellant to stay home for an extended quarantine
12 period. Appellant was subject to COVID-19 testing before she would be considered for
13 further employment.⁶
- 14 3. Then, Appellant and the roommate had a dispute which left Appellant without a home and
15 transportation to work. Shortly after the dispute with her roommate, Appellant separated
16 from her employment with Amazon and decided to return to Saipan.
- 17 4. Appellant departed Cedar Rapids, Iowa on or around December 16, 2020. Appellant
18 arrived in Saipan on or around December 19, 2020.
- 19 5. As an inbound traveler, Appellant was subject to COVID-19 quarantine protocols. Upon
20 arrival, Appellant experienced symptoms of COVID-19 but was later diagnosed with a
21 viral bronchitis. Appellant was released from quarantine on December 24, 2020. Because
22 Appellant was not employed at the time, this quarantine and symptoms did not prevent
23 her from returning to work.
- 24 6. On or around January 1, 2021, Appellant submitted an online application⁷ for
25 unemployment assistance under the PUA and FPUC programs administered by the
26 Department. In the application snapshot,⁸ Appellant self-certified under penalty of perjury
27 that:

27 ⁵ Exhibit 7.

28 ⁶ *Id.*

⁷ Exhibit 1.

⁸ *Id.*

- a. Appellant is a Citizen of U.S. or U.S. Territory;
 - b. Appellant's employment was directly affected by COVID-19 when a member of her household was diagnosed with COVID-19 and she had to quit her job as a direct result of COVID-19; and
 - c. Appellant's employment was affected since December 18, 2020;
7. Subsequently, Appellant submitted weekly certifications⁹ to claim continued benefits until March 6, 2021. In each weekly application, Appellant reported that her employment was affected by COVID-19 because she had to quit her job as a direct result of COVID-19.
 8. The answers provided in Appellant's initial application and weekly certifications were submitted under penalty of perjury. To that effect, Appellant must provide true, accurate, and complete answers. Moreover, it is the Appellant's responsibility to: (1) be informed about the program by reading the PUA Benefit Rights Information Handbook and other official written material regarding PUA; (2) comply with a PUA coordinator's requests for information in the adjudication phase; and (3) keep accurate records of the weekly claims, payments received, money earned, and work search contacts made.¹⁰
 9. The COVID-19 qualifying reasons identified in the online application and weekly certifications are in reference to her sick roommate in Iowa and her Amazon job in Iowa.
 10. It is unclear whether Appellant applied for and/or received pandemic unemployment benefits from Iowa. The CNMI does not have a reciprocity agreement to afford pandemic unemployment insurance benefits to Saipan residents whose employment was affected in other states.
 11. After relocating to the CNMI, Appellant applied to a number of private and public sector jobs.
 - a. Appellant applied for the Fire Academy but was not selected.
 - b. Appellant registered for jobs on the Department of Labor website and with the Office of Personnel and Management but was not contacted for interviews.
 - c. Appellant inquired with the Northern Marianas Technical Institute but was not hired due to budgetary matters unrelated to COVID-19.¹¹

⁹ Exhibit 2.

¹⁰ See Exhibits 1-2; see also Benefits Rights Information Handbook.

¹¹ Exhibit 9-10.

1 d. Appellant inquired with Latte Marine Diving & Salvage, LLC but was not hired
2 due to the lack of available projects or need to hire anyone. During witness
3 testimony, Ms. Tenorio confirmed that Appellant was never formally interviewed
4 or given a bonafide job offer to begin work. Ms. Tenorio further clarified that
5 COVID-19 was not necessarily the reason why Appellant was not hired. While
6 COVID-19 halted an ongoing project schedule, that project was fully staffed and
there was no available work or need to hire an additional worker at the time.¹²

7 12. Ultimately, Appellant was never employed or scheduled to begin employment at any of
8 the companies or organizations that she applied for in the CNMI.

9 13. Based on the answers on Appellant's initial and weekly certification(s), Appellant's claim
10 was processed for payment. However, Department's Benefit Payment Control Unit
11 audited the claim and the Department of Finance reversed the transaction before an
12 overpayment occurred.¹³

13 14. There were two types of determinations issued by the Department: (1) monetary
14 determinations; and (2) non-monetary determinations.

15 a. On January 4, 2021, the Department issued a monetary determination.¹⁴ The
16 monetary determination is a calculation of the Appellant's weekly benefit amount
17 of \$345. The monetary determination is not a finding that Appellant meets all the
18 PUA requirements of eligibility. Specifically, the monetary determination states:
19 "[p]rovided you meet all program deadlines and eligibility requirements during
20 the week(s) claims, you are eligible for a weekly benefit amount (WBA) of 345.00.
21 A determination notifies you of monetary eligibility [it] does not guarantee
22 payment of PUA benefits. You must meet all other eligibility requirements of the
law in order to receive payment."

23 b. On June 11, 2021, the Department issued a non-monetary determination¹⁵ finding
24 Appellant ineligible to receive PUA benefits. The Department disqualified
25 Appellant from PUA and FPUC benefits from December 27, 2020 to September
26

27 ¹² Exhibit 11.

28 ¹³ Exhibit 8. For this reason, the issue of overpayment is not discussed further.

¹⁴ Exhibit 3.

¹⁵ Exhibit 4.

1 4, 2021. The reason stated was because “[Appellant’s] PUA claim was filed in the
2 Commonwealth of the Northern Marianas Islands (CNMI), however, you have no
3 connection to the CNMI workforce”

4 15. Appellant departed the CNMI on or around April 30, 2021.

5 16. On June 17, 2021, Appellant, by and through her authorized representative, filed the
6 present appeal and the matter was scheduled for an Administrative Hearing.¹⁶

7 17. Multiple continuances were granted in order to provide more time for the parties to obtain
8 clarifying information and in order to execute a witness subpoena.

9 18. As discussed during the Administrative Hearing, Appellant, by and through her authorized
10 representative, is appealing the Department’s Determination that Appellant is not eligible
11 for PUA benefits.

12 V. CONCLUSIONS OF LAW

13 In consideration of the above-stated findings and applicable law, the undersigned issues the
14 following conclusions of law:

15 1. Appellant’s employment was not affected as a direct result of COVID-19 in the CNMI.

16 In accordance with the CARES Act and Continued Assistance Act, payment of PUA and
17 FPUC benefits are available to “covered individuals.” A “covered individual” is someone who:
18 (1) is not eligible for regular compensation or extended benefits under State or Federal law or
19 pandemic emergency unemployment compensation under Section 2107 of the CARES Act, including
20 an individual who has exhausted all rights to regular unemployment or extended benefits under State
21 or Federal law or Pandemic Emergency Unemployment Compensation under Section 2107;¹⁷ (2) self-
22 certifies¹⁸ that the individual is unemployed, partially unemployed, or unable or unavailable to work¹⁹
23 as a direct result²⁰ of a listed COVID-19 reason in Section 2102(a)(3)(A)(ii) of the CARES Act, and

24 ¹⁶ Exhibits 5-6.

25 ¹⁷ See UIPL 9-21, Attachment I: Coordination of Unemployment Benefit Programs. This condition is generally not
26 at issue with claimants working solely in the CNMI because there are no other State or Federal unemployment
27 insurance programs in the CNMI.

28 ¹⁸ The PUA program utilizes initial and weekly applications where claimants self-certify and report under penalty of
perjury.

¹⁹ A claimant must be able to work and be available for work, as defined by Hawaii state law, in order to be eligible
for benefits. See HAR § 12-5-35.

²⁰ Pursuant to 20 CFR § 625.5, unemployment is considered a “direct result” of the pandemic where the employment
is an immediate result of the COVID-19 public health emergency itself, and not the result of a longer chain of events
precipitated or exacerbated by the pandemic.

(3) provides required documentation of employment/self-employment within the applicable period of time.²¹

With respect to condition (2) listed above, Section 2102 (a)(3)(A)(ii)(I) of the CARES Act specifically identifies the COVID-19 qualifying reasons²² as:

- (aa) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- (bb) A member of the individual's household has been diagnosed with COVID-19;
- (cc) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- (dd) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- (ee) The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- (ff) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
- (gg) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- (hh) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- (ii) The individual has to quit his or her job as a direct result of COVID-19;
- (jj) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
- (kk) The individual meets any additional criteria established by the US Secretary of Labor for unemployment assistance under PUA.

²¹ Section 241 of the Continued Assistance Act requires that an individual must provide documentation substantiating employment or self-employment, or the planned commencement of employment or self-employment, if he or she files a new application for PUA on or after January 31, 2021, or, if the individual applied for PUA before January 31, 2021 and receives PUA benefits on or after December 27, 2020. "Individuals who do not provide documents substantiating employment/ self-employment (or planned employment/self-employment) within the required timeframe . . . are not eligible for PUA." UIPL 16-20, change 4, I-11. Failure to supply said documents, and any other relevant, requested documents is a justifiable basis to deny benefits under HAR § 12-5-81(j).

²² These reasons are further defined or illustrated in UIPL 16-20, Change 4.

1 Additional criteria established by the US Secretary of Labor under item (kk)²³, above, includes:

- 2 (1) The individual is an independent contractor who is unemployed
3 (total or partial) or is unable or unavailable to work because of the
4 COVID-19 public health emergency has severely limited his or
5 her ability to continue performing the customary job;
6 (2) The individual has been denied continued unemployment benefits
7 because the individual refused to return to work or accept an offer
8 of work at a worksite that, in either instance, is not in compliance
9 with local, state, or national health and safety standards directly
10 related to COVID-19. This includes, but is not limited to, those
11 related to facial mask wearing, physical distancing measures, or
12 the provision of personal protective equipment consistent with
13 public health guidelines;
14 (3) An individual provides services to an educational institution or
15 educational service agency and the individual is unemployed or
16 partially unemployed because of volatility in the work schedule
17 that is directly caused by the COVID-19 public health emergency.
18 This includes, but is not limited to, changes in schedules and
19 partial closures; and
20 (4) An individual is an employee and their hours have been reduced
21 or the individual was laid off as a direct result of the COVID-19
22 public health emergency.

23 As a preliminary matter, the undersigned recognizes the impact of COVID-19 on employees, their
24 families, and communities. Further, the undersigned recognizes the difficult and frustrating
25 circumstances that Appellant may have faced in deciding to quit her job in Iowa, returning to Saipan
26 for family support, and her inability to obtain work in Saipan. However, based on the applicable law
27 and evidence provided, Appellant is not a "covered individual" eligible for PUA benefits. As further
28 discussed below, Appellant does not meet the eligibility criteria as outlined in federal law, federal
guidance, and state law.

With respect to condition one, stated above, it is unclear whether Appellant has exhausted all state
benefits and federal benefits, as required. When questioned, Appellant's authorized representative
could not confirm whether Appellant applied for and/or received state or other federal unemployment
benefits from Iowa. Without substantiating evidence to show that Appellant exhausted all other
benefits and will not be collecting double benefits this issue could not be cleared.

///

²³ See Unemployment Insurance Program Letter 16-20 and 16-20, Change 5.

1 With respect to condition two, stated above, Appellant's employment was not affected in the
2 CNMI. Considering that this program applies a combination of federal and state law in order to
3 determine eligibility, a claimant must file for unemployment benefits in the state or territory where
4 their employment was affected by the COVID-19 pandemic.²⁴ Here, Appellant's employment was not
5 affected in the CNMI because she was not employed or scheduled to begin employment in the CNMI.
6 Instead, it appears that Appellant's employment was affected in Iowa when: (1) her then-roommate
7 was diagnosed with COVID-19; and (2) Amazon ordered her to stay home after the diagnoses.

8 Moreover, Appellant's employment in the CNMI was not affected as a "direct result" of a
9 COVID-19 qualifying reason. Pursuant to 20 CFR § 625.5, unemployment is considered a direct
10 result of the pandemic where the unemployment is an immediate result of the COVID-19 public
11 health emergency itself, and not the result of a longer chain of events precipitated or exacerbated
12 by the pandemic. In order to be a direct result, Appellant must satisfy a listed qualifying reason,
13 (aa) through (kk). On her initial and weekly certifications, Appellant submitted that: (1) a member
14 of her household was diagnosed with COVID-19; and (2) she had to quit her job as a direct result
15 of COVID-19. In addition to the fact that these circumstances occurred earlier and outside of the
16 CNMI, Appellant does not meet these COVID-19 qualifying reasons. First, the seasonal job was
17 temporary and there was no showing that Appellant was guaranteed employment past the
18 holidays.²⁵ Second, while Amazon required Appellant to self-quarantine at home, the job was
19 available after the self-quarantine period and COVID-19 testing.²⁶ However, instead of returning
20 to work, Appellant ultimately quit her seasonal job. As illustrated under UIPL 16-20, change 4, an
21 employee "has to quit" within the meaning of (ii) above, "only when ceasing employment is an
22 involuntary decision compelled by the circumstances." Based on the authorized representative's
23 testimony and evidence provided, it appears that Appellant's decision to quit was motivated by the
24 fear of contracting COVID-19 and lack of transportation to work after a dispute with the roommate.

25 ²⁴ See UIPL 16-20, Change 1 Attachment I, Question 7 "The [] individual must file with the state [or territory] where
26 he or she was working at the time of becoming unemployed, partially unemployed, or unable or unavailable to work
27 because of a COVID-19 related reason listed in section 2102(a)(3)(A)(ii)(I) of the CARES ACT."; *see also* UIPL 16-
28 20, Change 6 (4)(c) "[A]n individual may not file a PUA claim with a state [or territory] which they did not work."; *see also* PUA Benefit Rights Information Handbook.

25 ²⁵ "After being out of work . . . from May to mid-November of 2020, I began work as a seasonal full-time (40-44)
26 hours a week) employee at the large Amazon Warehouse in Iowa City, Iowa on or about November 20, 2020. My job
27 title was Warehouse employee and my employment would last from late November to the end of the holiday season
28 in late December 2020, or further if needed." Exhibit 7.

25 ²⁶ Appellant "was ordered to stay at home for an extended quarantine period, subject to testing, before I would be
considered for further employment." Exhibit 7.

1 Notably, the fear of contracting COVID-19 and lack of transportation is not a COVID-19 qualifying
2 reason but self-imposed restrictions on one's ability and availability²⁷ to work. Moreover, the chain
3 of events that led Appellant to Saipan where she was unable to find work does not meet this
4 requirement.

5 With respect to condition 3, stated above, Appellant has failed to submit employment
6 certifications or other documentation to substantiate the claim of her employment being affected as a
7 direct result of the specific COVID-19 qualifying reasons in the CNMI. "Individuals who do not
8 provide documents substantiating employment/self-employment (or planned employment/self-
9 employment) within the required timeframe . . . are not eligible for PUA." UIPL 16-20, change
10 4, I-11. Failure to supply said documents, and any other relevant, requested documents is a
11 justifiable basis to deny benefits under HAR § 12-5-81(j). Simply, there is no showing of
12 Appellant's employment or self-employment affected by a Covid-19 reason in the CNMI.

13 Ultimately, for the reasons stated above, Appellant's employment was not affected by a
14 Covid-19 qualifying reason in the CNMI. For that reason, Appellant is not eligible for
15 unemployment benefits under the PUA and/or FPUC programs.

16 VI. DECISION

17 For the reasons stated above, it is ORDERED that:

- 18 1. The CNMI Department of Labor's Disqualifying Determination, dated June 11, 2021 is
19 **AFFIRMED**; and
- 20 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of December
21 27, 2020 to September 4, 2021.

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23 ///

24 ///

25 ²⁷ In accordance with the CARES Act, an individual must be able and available to work in the CNMI during the week
26 that benefits are claimed. "An individual shall be deemed able and available for work . . . if the individual
27 is able and available for suitable work during the customary work week of the individual's customary occupation
28 which falls within the week for which a claim is filed."²⁷ "An individual shall be deemed *able* to work if the individual
has the physical and mental ability to perform the usual duties of the individual's customary occupation or other
work for which is the individual is reasonably fitted by training and experience."²⁷ "An individual shall be deemed
available for work only if the individual is ready and willing to accept employment for which the individual is
reasonably fitted by training and experience. The individual must intend and wish to work, and there must be no
undue restrictions either self-imposed or created by force of circumstances which prevent the individual from
accepting employment."

1 If a party is aggrieved by this Order and would like to contest the decision, he or she must
2 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The
3 written request should be supported by legal, factual, or evidentiary reasons to reopen the
4 decision. The written request must be submitted to the Administrative Hearing Office, either in
5 person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at
6 hearing@dol.gov.mp.

7 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
8 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant
9 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI
10 Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,
11 filings fees, and filing deadlines for judicial review will be as established by the applicable law
12 and court rule.

13 So ordered this 25th day of October, 2021.

14 /s/

15 **JACQUELINE A. NICOLAS**
16 Administrative Hearing Officer
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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0130
)
Renelyn Gallos)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 9, 2021 at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan. Appellant Renelyn Gallos (“Appellant”) appeared telephonically and was self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Appellee” or “Department”) was present and represented by PUA Coordinator Caitlin King, PUA Program Supervisor Sharon Palacios, and Acting PUA Program Supervisor Zachary Taitano. There were no other witnesses who provided testimony at the hearing. The following documents were admitted:

Exhibits:

1. Exhibit 1: Copy of the Appellant’s Application Snapshot, filed June 18, 2020;
2. Exhibit 2: Copy of four of the Appellant’s Weekly Certifications for the following weeks:
 - a. Beginning March 29, 2020 and ending April 4, 2020;
 - b. Beginning April 12, 2020 and ending April 18, 2020;
 - c. Beginning April 11, 2021 and ending April 17, 2021; and
 - d. Beginning July 25, 2021 and ending July 31, 2021.
3. Exhibit 3: Copy of Department’s Disqualifying Determination, dated June 24, 2021, disqualification effective December 27, 2020 to September 4, 2021;

4. Exhibit 4: Copy of Appellant's Bank of Guam statements, dated August 31, 2020, for Appellant's Savings, account number ending in 5763, showing Appellant received two benefit payments.
5. Exhibit 5: Copies of Appellant's three Employment Certifications, dated April 15, 2020, June 19, 2020 and May 7, 2021;
6. Exhibit 6: Copy of USCIS Form I-797A, Approval Notice for Appellant's H1B, dated September 28, 2020;
7. Exhibit 7: Copy of USCIS Form I-797A, Approval Notice for Appellant's CW-1, dated October 1, 2019;
8. Exhibit 8: Copy of Department's SAVE verification results, initiated August 24, 2021;
9. Exhibit 9: Copy of Appellant's Request to File an Appeal, filed June 25, 2021;
10. Exhibit 10: Copy of Notice of Hearing, issued on June 25, 2021;
11. Exhibit 11: Copy of Department's Notice of Overpayment, dated August 31, 2021;
12. Exhibit 12: Copy of Department's Case Notes, created October 1, 2020 and June 24, 2021;
13. Exhibit 13: Copy of Payment Plan Agreement, issued August 31, 2021; and
14. Exhibit 14: Copy of Department's SAVE verification results, initiated on June 23, 2021.

For the reasons stated below, the Department's Determination dated June 24, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of December 27, 2020 to September 4, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

1 FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021
2 (“ARPA”) extended the programs to September 6, 2021. The Department is charged with the
3 responsibility in administering the above-mentioned programs in the CNMI in accordance to
4 applicable law.⁴ The Department’s Administrative Hearing Office has been designated to preside
5 over appeals of agency decisions.

6 Upon review of the records, Appellant’s appeal is timely filed. Accordingly, jurisdiction is
7 established.

8 III. PROCEDURAL BACKGROUND & ISSUES

9 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
10 review of Appellant’s application and supporting documents, the Department issued a
11 Disqualifying Determination on June 24, 2021 and a Notice of Overpayment on August 31, 2021.
12 On June 25, 2021, Appellant filed the present appeal of the June 24, 2021 Disqualifying
13 Determination and the matter was scheduled for a hearing. As stated in the Notice of Hearing, the
14 issues on appeal are: (1) whether Appellant is eligible for PUA; and (2) whether an overpayment
15 occurred and funds should be returned.

16 IV. FINDINGS OF FACT

17 In consideration of the evidence provided and credibility of witness testimony, the
18 undersigned issues the following findings of fact:

- 19 1. Prior to the COVID-19 pandemic, Appellant was employed as a full-time Internal Auditor
20 at J.C. Tenorio Enterprises, Inc. (“Employer”), located in Susupe Village, Saipan. As a
21 full-time Internal Auditor, Appellant was paid \$7.45 per hour and she worked 80 hours
22 biweekly.⁵
- 23 2. Due the economic impact of the COVID-19 pandemic, Employer implemented cost-
24 cutting measures that affected Appellant’s employment. Specifically, Appellant reduced
25 Appellant’s hours as follows:

26
27 ³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for
28 Unemployed Workers Act of 2020” or “Continued Assistance Act”).

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

⁵ Exhibit 5.

- a. From March 25, 2020 to March 28, 2020, Employer reduced Appellant's hours from 80 hours biweekly to 20 hours biweekly;
 - b. From March 29, 2020 to April 11, 2020, Employer brought Appellant's hours back up to 80 hours biweekly;
 - c. From April 12, 2020 to May 11, 2020, Employer again reduced appellant's hours, this time, to 60 hours biweekly; and
 - d. On May 12, 2020 to June 19, 2020, Employer brought Appellant's hours back up to 80 hours biweekly⁶
3. Subsequently, Appellant transferred employment, and from September 28, 2020 to May 7, 2021, Appellant was employed as a full-time Accountant by Marianas Management Corporation ("MMC").⁷ As a full-time Accountant, Appellant was paid \$12.86 per hour and she worked 80 hours biweekly.⁸
 4. From April 12, 2021 to May 7, 2021, MMC reduced Appellant's hours from 80 hours biweekly to 64 hours biweekly.⁹
 5. On or around June 18, 2020, Appellant submitted an application¹⁰ for unemployment assistance under the PUA and FPUC programs administered by the Department. In her initial application, Appellant self-certified under penalty of perjury that:
 - a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
 - b. Appellant's employment was directly affected by COVID-19 when her employer temporarily implemented a reduction of hours; and
 - c. Appellant's employment was affected since March 30, 2020.¹¹
 6. Subsequently, Appellant submitted weekly certifications to claim continued benefits from week ending April 4, 2020 to April 18, 2020 and on week ending April 11, 2021 to April 17, 2021 and July 25, 2021 to July 31, 2021. In each weekly certification, Appellant reported that:
 - a. Her employment was still affected by COVID-19 because she experienced reduction in hours;

⁶ Exhibit 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Exhibit 1.

¹¹ *Id.*

- b. She is able and available for work during the claimed week; and
- c. She earned a gross income of \$298.00 during the claimed week.¹²

7. The answers provided in Appellant's initial application and weekly certifications were submitted under penalty of perjury. It is Appellant's responsibility to provide true, accurate, and complete answers. Moreover, it is Appellant's responsibility to be informed about the program by reading the PUA Benefit Rights Information Handbook and other official written material regarding PUA.

8. Based on the answers on Appellant's initial application and weekly certification(s), Appellant's claim was processed for payment.

9. Based on the Department's and Appellant's testimony and copies of Appellant's bank statements, the following benefit payments were made to Appellant:

- a. On August 3, 2020, Appellant received \$1,434.00 in federal unemployment benefits by direct deposit; and
- b. On August 27, 2020, Appellant received \$2,868.00 in federal unemployment benefits by direct deposit.¹³

10. Appellant received a total amount of \$4,302.00 in federal unemployment benefits by direct deposit.¹⁴

11. With respect to Appellant's immigration status and employment authorization, Appellant provided testimony and substantiating evidence to demonstrate that:

- a. Appellant had a valid CW-1 visa from September 29, 2019 to September 28, 2020;¹⁵ and
- b. Appellant applied for an H1B visa and USCIS approved her H1B visa, which is valid from September 28, 2020 to September 24, 2023.¹⁶

12. Appellant confirmed during the Administrative Hearing that she has no other documents or evidence to demonstrate that she is a qualified alien during the time period she is claiming benefits.

13. On or about October 1, 2020, the Department cancelled further payments of unemployment benefits to Appellant because of her CW-1 status and the Department

¹² Exhibit 2.

¹³ Exhibit 4

¹⁴ *Id.*

¹⁵ Exhibit 7.

¹⁶ Exhibit 6.

informed the Benefit Payment Control Unit (“BPC”) regarding the overpayment.¹⁷

14. On June 23, 2021 and August 24, 2021, the Department entered Appellant’s information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division.¹⁸ The SAVE database is used to determine the immigration status of PUA applicants so only those entitled to benefits receive them. The SAVE results confirmed that Appellant is an H1B visa holder with expiration date September 24, 2023.¹⁹

15. On June 24, 2021, the Department issued a determination disqualifying Appellant from PUA and FPUC benefits from December 27, 2020 to September 4, 2021 because the Department found that Appellant is not a U.S. citizen, non-citizen national, or a qualified alien because she has an H1B visa.²⁰

16. On June 25, 2021, Appellant filed the present appeal and the matter was scheduled for an Administrative Hearing.²¹

17. Appellant is appealing the Department’s Determination because she argues that her H1B status is a qualified alien eligible for PUA and FPUC benefits.²²

18. On August 31, 2021, the Department’s Benefit Payment Control Unit issued a Notice of Overpayment for the total amount of \$4,302.00 in federal unemployment benefits for weeks ending April 4, 2020 through May 9, 2020.²³ Specifically, this payment amounted to \$1,062.00 in PUA benefits and \$3,240.00 in FPUC benefits.²⁴ The basis for the determination is that Appellant was an unqualified alien for PUA 1 benefits due to her CW-1 status.

19. Appellant does not contest receiving the amount listed in the Notice of Overpayment.

20. This matter was scheduled for an Administrative Hearing.²⁵

¹⁷ Exhibit 12.

¹⁸ Exhibits 8 and 14.

¹⁹ Exhibits 8 and 14.

²⁰ Exhibit 3; *see also* Exhibit 12.

²¹ *See* Exhibits 9 and 10.

²² Exhibit 9.

²³ Exhibit 11.

²⁴ *Id.*

²⁵ Exhibit 10.

1 21. During the Administrative Hearing, Appellant stated that she is not contesting the basis
2 for the overpayment for weeks ending April 4, 2020 through May 9, 2020 and was willing
3 to enter into a reasonable payment plan to repay the overpayment.

4 22. Appellant also testified that she still has about half of the overpayment benefits remaining,
5 she is currently working, she has no dependents aside from her parents in the Philippines,
6 and that she is able to repay at least \$100.00 biweekly without hardship.

7 23. The parties testified at the Administrative Hearing that the parties discussed and almost
8 finalized a payment plan agreement while Appellant was off-island, but the parties
9 deferred discussions on specific details of the agreement, such as the amount to be paid
10 biweekly and the start date of payment, pending Appellant's return to Saipan and
11 mandatory travel-related quarantine.²⁶

12 V. CONCLUSIONS OF LAW

13 In consideration of the above-stated findings and applicable law, the undersigned issues the
14 following conclusions of law:

15 1. Appellant's appeal is timely filed.

16 Generally, an appeal should be filed within ten days after the Disqualifying Determination
17 was issued or served to the claimant. However, the Department may extend the period to thirty
18 days by a showing of good cause.²⁷ Good cause means: (1) illness or disability; (2) keeping an
19 appointment for a job interview; (3) attending a funeral of a family member; and (4) any other
20 reason which would prevent a reasonable person from complying as directed.²⁸ Here, Appellant
21 filed her Appeal on June 25, 2021,²⁹ just one day after the Disqualifying Determination was issued
22 on June 24, 2021.³⁰ Accordingly, Appellant's Appeal is filed within ten days after the
23 Disqualifying Determination and is timely filed.

24 2. Appellant is not a qualified alien.

25 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
26 eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time
27 relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

28 ²⁶ See Exhibit 13.

29 ²⁷ HI. Rev. Statute § 383-38(a).

30 ²⁸ HAR § 12-5-81(j).

²⁹ Exhibit 9.

³⁰ See Exhibit 3 and 9.

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, "CW-1 workers may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021)."

In her Appeal, Appellant argued that she is a qualified alien because of her H1B visa, valid from September 28, 2020 to September 24, 2023.³¹ However, Appellant's arguments are not supported by law.

Based on the applicable law and evidence provided, Appellant is not a qualified alien eligible for federal public benefits, such as PUA or FPUC. First, while Appellant submitted documents showing that she had a CW-1 visa, her CW-1 visa was valid only until September 28, 2020,³² which is a period prior to CW-1 workers qualifying for PUA and FPUC benefits, that is after December 27, 2020. Second, contrary to Appellant's arguments, Appellant's subsequent status as an H1B visa holder³³ does not correspond to any provision of the qualified alien definition, above. The H1B visa is a type of employment-based visa that allows aliens to work in the United States, including in the CNMI. While the H1B visa grants Appellant certain rights and privileges to live and work in the United States, it does not grant her rights to federal public benefits, such as PUA and FPUC. Finally, when asked at the Administrative Hearing about each provision of the qualified alien definition, Appellant responded that she does not meet any of the listed statuses. There is no other evidence or testimony to establish that Appellant meets the qualified

³¹ Exhibit 9.

³² Exhibit 7.

³³ Exhibit 6.

alien definition, above. Therefore, Appellant was not a qualified alien during the weeks she claimed and she is not eligible to receive PUA or FPUC benefits.

3. Appellant is overpaid and is not entitled to a waiver.

“Benefits shall be paid promptly in accordance with a determination, redetermination, or decision or appeal.”³⁴ However, “[a]ny individual who has received any amount as benefits . . . to which the individual was not entitled shall be liable for the amount unless the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience.”³⁵ Fault³⁶ is defined as:

- (A) A material statement made by the individual which the individual knew or should have known to be incorrect; or
- (B) Failure to furnish information which the individual knew or should have known to be material; or
- (C) Acceptance of a payment which the individual either knew or reasonably could have been expected to know was incorrect.

Based on federal guidance, “contrary to equity and good conscience” is tantamount to placing an individual below the poverty line and taking away basic necessities to live. In evaluating equity and good conscience,³⁷ the factors to consider include, but are not limited to:

- (A) Whether notice of a redetermination was given to the claimant, as required . . .
- (B) Hardship to the claimant that the repayment may impose; and
- (C) The effect, if any, that the repayment will have upon the fulfillment of the objectives of the program.³⁸

Considering the discussions above, Appellant was not eligible to receive unemployment benefits because she is not a qualified alien and she should not have been paid benefits under the

³⁴ HRS § 383-43.

³⁵ HRS § 383-44. Section 2104(f)(2) of the CARES Act requires individuals who have received FPUC overpayments to repay these amounts to the state agency. Thereunder, the state has authority to waive repayments of FPUC if the payment was without fault on the part of the individual and such repayment would be contrary to equity and good conscience. Section 201(d) of the Continued Assistance Act amends Section 2102(d) of the CARES Act and authorizes states to waive the repayment if the state determines that the payment of PUA was without fault on the part of any such individual and such repayment would be contrary to equity and good conscience. This waiver authority applies to overpayments that meet this criterion at any time since the PUA program began.

³⁶ HRS 12-5-83.

³⁷ *Id.*

³⁸ PUA benefits were designed to be a critical lifeline for qualifying individuals facing a financial crisis amidst a pandemic. Issues of fraud and overpayments are of great consequence that jeopardizes the integrity of the program and availability of funds for eligible or qualified individuals.

1 PUA or FPUC program. Copies of Appellant's bank statements³⁹ and Appellant's testimony
2 confirmed that Appellant received the total sum of \$4,302.00 in benefits for weeks ending
3 April 4, 2020 through May 9, 2020. However, upon review of Appellant's immigration records
4 and the parties' testimony, the undersigned finds that Appellant was not a qualified alien for those
5 weeks that she received benefit payments because at that time she had a valid CW-1 visa⁴⁰ and
6 CW-1 workers were not yet eligible for benefits under PUA and FPUC program. Accordingly,
7 Appellant should not have been paid benefits under PUA or FPUC for weeks ending April 4,
8 2020 through May 9, 2020.

9 In this case, however, the undersigned finds that this overpayment occurred due to the fault
10 of the Department and technical error in the online portal. First, the Department is required to
11 institute benefit payment controls and run a SAVE inquiry to confirm identification or eligibility
12 for all aliens before issuing benefit payments. The SAVE inquiry did not occur and the online
13 portal automatically processed Appellant's application based on the information provided on the
14 application. Two SAVE inquiries were later initiated, but these inquiries were not initiated until
15 June 23, 2021 and August 24, 2021,⁴¹ which are approximately ten months after the payments
16 were made to Appellant via direct deposits to Appellant's bank account in August 2020.⁴²

17 Second, the technically incorrect answer Appellant provided regarding her citizenship was
18 not her fault. Specifically, when asked about citizenship on her Application, Appellant answered
19 that she was an "Alien/Refugee Lawfully Admitted to the U.S."⁴³ The undersigned finds that
20 Appellant genuinely did not understand how this category is defined and she believed that she
21 was lawfully admitted into the U.S. with her CW-1 visa. Furthermore, while it is generally the
22 claimant's responsibility to read and understand the program requirements as listed in the PUA
23 Benefit Rights Information Handbook, this Handbook defines "Qualified Aliens", but does not
24 define "Alien/Refugee Lawfully Admitted to the U.S." The term "Alien/Refugee Lawfully
25 Admitted to the U.S." is overly technical language that is very confusing and may be compounded
26 by language barriers when: (1) the term is not defined in any of the Department's published
27 materials; and (2) the application form and the PUA Benefits Rights Information Handbook were
28 not translated for persons with limited English proficiency.

³⁹ Exhibit 4.

⁴⁰ Exhibit 7.

⁴¹ Exhibits 8 and 14.

⁴² See Exhibit 4.

⁴³ Exhibit 1.

1 However, although the undersigned finds that the overpayment was made through no fault of
2 the Appellant in this case, the undersigned finds that repayment would not be contrary to equity
3 and good conscience. First, Appellant stated in the Administrative Hearing that she does not
4 contest the amount listed in the Notice of Overpayment and she confirmed receiving the total sum
5 of \$4,302.00. Appellant also testified that she has spent only about half of that sum of overpaid
6 benefits, that she is currently working, that she does not have any dependents aside from her
7 parents in the Philippines, and that she is able to repay at least \$100.00 biweekly without hardship.
8 Further, the parties testified at the Administrative Hearing that Appellant and the Department's
9 BPC representative had already discussed with the Appellant and the parties had almost finalized
10 a payment plan agreement.⁴⁴ The parties testified that further discussions on specific details of
11 the payment plan agreement, such as the amount to be paid biweekly and the start date of the
12 payments, pending Appellant's return to Saipan from her off-island leave and mandatory travel-
13 related quarantine.

14 Considering Appellant's and Department's testimony and discussions, the undersigned finds
15 that repayment would be consistent and in conformity with equity and good conscience.
16 Accordingly, Appellant is not entitled to a waiver for repayment.

17 VI. DECISION

18 For the reasons stated above, it is ORDERED that:

- 19 1. The CNMI Department of Labor's Disqualifying Determination, dated June 24, 2021, is
20 **AFFIRMED**;
- 21 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of
22 December 27, 2020 to September 4, 2021;
- 23 3. The CNMI Department of Labor's Notice of Overpayment, dated August 31, 2021, is
24 **AFFIRMED**;
- 25 4. Appellant was overpaid in the total amount of **\$4,302.00** for weeks ending April 4, 2020
26 through May 9, 2020 and Appellant is not entitled to a waiver for repayment; and
- 27 5. Appellant is **ORDERED** to immediately report to the Department's Benefit Payment
28 Control Unit to enter into and finalize a reasonable payment plan agreement. The
Department's Benefit Payment Control Unit shall assist Appellant in proceeding with
repayment and notify the Administrative Hearing Office when repayment is complete.

⁴⁴ See Exhibit 13.

1 If a party is aggrieved by this Order and would like to contest the decision, he or she must
2 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The
3 written request should be supported by legal, factual, or evidentiary reasons to reopen the
4 decision. The written request must be submitted to the Administrative Hearing Office, either in
5 person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at
6 hearing@dol.gov.mp.

7 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
8 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant
9 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI
10 Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,
11 filings fees, and filing deadlines for judicial review will be as established by the applicable law
12 and court rule.

13 So ordered this 18th day of October, 2021.

14 /s/

15 **CATHERINE J. CACHERO**
16 Administrative Hearing Officer,
17 *Pro Tem*
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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) **PUA Case No. 21-0131**
)
MARIA ELENA D. BORLONGAN,)
)
Appellant,) **ADMINISTRATIVE ORDER**
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 14, 2021 at approximately 9:00 a.m. at the Administrative Hearing Office. Appellant Maria Elena De Guzman Borlongan ("Appellant") was self-represented and appeared telephonically. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera. There were no other witnesses that provided testimony at the hearing. The following Exhibits were admitted into evidence at the hearing:

1. Exhibit 1: Copy of the Appellant's Application Snapshot, filed February 11, 2021;
2. Exhibit 2: Copy of Termination Notice from Appellant's Employer dated July 15, 2020;
3. Exhibit 3: Copy of USCIS Form I-797A Notice of Action dated December 26, 2019;
4. Exhibit 4: Copy of SAVE Response initiated on June 6, 2021;
5. Exhibit 5: Copy of Appellant's Employment Authorization Document, valid from March 15, 2021 to March 15, 2026;
6. Exhibit 6: Copy of Disqualifying Determination dated June 17, 2021;
7. Exhibit 7: Copy of PUA Appeal Form signed on June 25, 2021;
8. Exhibit 8: Copy of Notice of Hearing issued on June 28, 2021;

1 9. Exhibit 9: Copy of Department's Benefit Control Unit email communication, dated
2 September 10, 2021; and

3 10. Exhibit 10: Copies of email communications between Appellant and the Department
4 dated June 24, 2021 to September 14, 2021.

5 For the reasons stated below, the Department's Determination dated June 17, 2021 is
6 **AFFIRMED**. Claimant is not eligible for benefits for the period of March 28, 2021 to
7 September 4, 2021.

8 II. JURISDICTION

9 On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of
10 2020 was signed into law creating new temporary federal programs for unemployment benefits
11 called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment
12 Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed
13 Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said
14 federal unemployment insurance programs, which, among other things, extended the PUA and
15 FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021
16 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is
17 charged with the responsibility in administering the above-mentioned programs in the CNMI in
18 accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing Office
19 has been designated to preside over appeals of agency decisions.

20 Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is established.

21 III. PROCEDURAL BACKGROUND & ISSUES

22 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs on
23 February 11, 2021. Upon review of Appellant's application and supporting documents, the
24 Department issued a Disqualifying Determination on June 17, 2021. On June 28, 2021, Appellant

25 ¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

26 ² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

27 ³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for
Unemployed Workers Act of 2020" or "Continued Assistance Act").

28 ⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 filed the present appeal and the matter was scheduled for a hearing. As stated in the Notice of
2 Hearing, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is
3 eligible for PUA; and (3) whether an overpayment occurred and funds should be returned.

4 IV. FINDINGS OF FACT

5 In consideration of the evidence provided and credibility of witness testimony, the
6 undersigned issues the following findings of fact:

- 7 1. Prior to the COVID-19 pandemic, Appellant was employed as an Accounting Assistant at
8 Century Tours, Inc. ("Employer"), located in Susupe Village, Saipan. As an Accounting
9 Assistant, Appellant was paid \$309.40 gross salary per week.⁵
- 10 2. Due the economic impact of the COVID-19 pandemic, Employer implemented cost-
11 cutting measures, including reduction in force that affected Appellant's employment.
12 Specifically, Employer eliminated Appellant's position and terminated her employment
13 effective August 15, 2020.⁶
- 14 3. On February 11, 2021, Appellant submitted an application⁷ for unemployment assistance
15 under the PUA and FPUC programs administered by the Department. In the application,⁸
16 Appellant self-certified under penalty of perjury that:
 - 17 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
 - 18 b. Appellant's employment was directly affected by COVID-19 when her place of
19 employment closed as a direct result of the COVID-19 public health emergency;
20 and
 - 21 c. Appellant's employment was affected since August 15, 2020.
- 22 4. With respect to Appellant's immigration status and employment authorization, Appellant
23 provided testimony and substantiating evidence to demonstrate the following:
 - 24 a. Appellant had a CW-1 valid from December 23, 2019 to September 30, 2020;⁹
 - 25 b. Appellant applied for CNMI Long-Term Resident status and was granted the status
26 from March 15, 2021 to March 15, 2026;¹⁰ and

26 ⁵ Exhibit 1.

27 ⁶ Exhibit 2.

28 ⁷ Exhibit 1.

⁸ *Id.*

⁹ Exhibit 3.

¹⁰ Exhibit 5.

1 c. Appellant has an employment authorization document (“EAD”) to work in the
2 CNMI under Category C37, which is valid from March 15, 2021 to
3 March 15, 2026.¹¹

4 5. Appellant has no other documents or evidence to demonstrate that she is a qualified alien
5 during the time period that she is claiming benefits.

6 6. On June 6, 2021, the Department entered Appellant’s information into the Systematic
7 Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification
8 Division.¹² This database is used to determine the immigration status of PUA applicants
9 so only those entitled to benefits receive them. The SAVE Response indicate that
10 Appellant is a CNMI Long Term Resident authorized until March 15, 2026. The results
11 further confirm that Appellant’s employment authorization is approved under EAD
12 Category C37.¹³

13 7. On June 17, 2021, the Department issued a determination disqualifying Appellant from
14 PUA and FPUC benefits from March 28, 2021 to September 4, 2021 because the
15 Department found that on March 25, 2021 Appellant received her EAD noting Category
16 C37 as the category, valid from March 15, 2021 to March 15, 2026, and EAD Category
17 C37 is not a U.S. Citizen, Non-citizen National, or Qualified Alien.¹⁴

18 8. On June 28, 2021, Appellant filed the present appeal and the matter was scheduled for an
19 Administrative Hearing.¹⁵

20 9. As discussed during the Administrative Hearing, Appellant is appealing the Department’s
21 Determination for March 28, 2021 to September 4, 2021.

22 10. While the appeal was pending, and through testimony during the Administrative Hearing,
23 the Department confirmed there was no overpayment issues in this case.¹⁶

24 V. CONCLUSIONS OF LAW

25 In consideration of the above-stated findings and applicable law, the undersigned issues the
26 following conclusions of law:

27 ¹¹ Exhibit 5.

28 ¹² Exhibit 4.

¹³ Exhibit 4.

¹⁴ Exhibit 6.

¹⁵ Exhibit 7.

¹⁶ Exhibit 9.

1 **1. Appellant's appeal is timely filed.**

2 Generally, an appeal should be filed within ten days after the Notice of Determination was
3 issued or served to the claimant. However, the Department may extend the period to thirty days
4 by a showing of good cause.¹⁷ Good cause means: (1) illness or disability; (2) keeping an
5 appointment for a job interview; (3) attending a funeral of a family member; and (4) any other
6 reason which would prevent a reasonable person from complying as directed.¹⁸

7 Here, the Department issued a Disqualifying Determination on June 17, 2021. Therein, the
8 Department found that Appellant was not eligible for PUA because she is not a U.S. Citizen, Non-
9 citizen National, or Qualified Alien. The Determination stated that Appellant has 10 calendar
10 days to file an appeal and stated that the appeal **"must be received or postmarked by
06/27/2021."** (Emphasis in original.)

11 During the Administrative Hearing, Appellant testified that, on or about June 24, 2021, she
12 emailed her request for appeal.¹⁹ However, in that June 24, 2021 email, Appellant only attached
13 her signed Disqualifying Determination in which she marked "I appeal"; Appellant did not submit
14 the Request for Reconsideration or Appeal form with that email.²⁰

15 The next day, on Friday, June 25, 2021, the Administrative Hearing Office emailed Appellant
16 and instructed Appellant to also complete "the attached *Request for Reconsideration or Appeal*
17 *form* needed to complete your [Appellant's] filing."²¹ On that same day, Appellant submitted the
18 form, but she had checked Request for Reconsideration while stating in her email that she had
19 "filled out PUA Request for Reconsideration Appeal Form."²² At that time of her resubmission
20 and email on June 25, 2021, the Administrative Hearing Office had already closed for the day and
21 it remained closed during the weekend. The following Monday, June 28, 2021, Appellant
22 resubmitted her appeal form after the Administrative Hearing Office called to clarify her request
23 and ask that she resubmit her corrected form in which she requests an appeal.²³ Ultimately,
24 Appellant first took action to file her appeal on June 24, 2021, within the 10-day deadline to
25 submit her appeal, but it was incomplete. By close of business on Friday, June 25, 2021,

26 ¹⁷ HI. Rev. Statute § 383-38(a).

27 ¹⁸ HAR § 12-5-81(j).

28 ¹⁹ Exhibit 10.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

1 Appellant had submitted the appeal form, but it was unclear and not corrected until after the
2 weekend when the Administrative Hearing Office called her on Monday to clarify her request and
3 appeal form. Based on the above, the undersigned finds that Appellant demonstrates good cause
4 for a 30-day extension. Based on this extension, the Appellant's appeal is timely filed.

5 **2. Appellant's employment was affected as a direct result of COVID-19.**

6 In accordance with the CARES Act and Continued Assistance Act, payment of PUA and
7 FPUC benefits are available to "covered individuals." A "covered individual" is someone who:
8 (1) is not eligible for regular compensation or extended benefits under State or Federal law or
9 pandemic emergency unemployment compensation under Section 2107 of the CARES Act, including
10 an individual who has exhausted all rights to regular unemployment or extended benefits under State
11 or Federal law or Pandemic Emergency Unemployment Compensation under Section 2107;²⁴ (2) self-
12 certifies²⁵ that the individual is unemployed, partially unemployed, or unable or unavailable to work²⁶
13 as a direct result²⁷ of a listed COVID-19 reason in Section 2102(a)(3)(A)(ii) of the CARES Act, and
14 (3) provides required documentation of employment/self-employment within the applicable period of
15 time.²⁸

16 With respect to condition (2) listed above, Section 2102 (a)(3)(A)(ii)(I) of the CARES Act
17 specifically identifies the COVID-19 qualifying reasons²⁹ as:

- 18 (aa) The individual has been diagnosed with COVID-19 or is
19 experiencing symptoms of COVID-19 and is seeking a medical
20 diagnosis;
21 (bb) A member of the individual's household has been diagnosed with
22 COVID-19;

23 ²⁴ This condition is generally not at issue with claimants in the CNMI because there are no other State or Federal
24 unemployment insurance programs in the CNMI.

25 ²⁵ The PUA program utilizes initial and weekly applications where claimants self-certify and report under penalty of
26 perjury.

27 ²⁶ A claimant must be able to work and be available for work, as defined by Hawaii state law, in order to be eligible
28 for benefits. See HAR § 12-5-35.

²⁷ Pursuant to 20 CFR § 625.5, unemployment is considered a "direct result" of the pandemic where the employment
is an immediate result of the COVID-19 public health emergency itself, and not the result of a longer chain of events
precipitated or exacerbated by the pandemic.

²⁸ Section 241 of the Continued Assistance Act requires that an individual must provide documentation substantiating
employment or self-employment, or the planned commencement of employment or self-employment, if he or she
files a new application for PUA on or after January 31, 2021, or, if the individual applied for PUA before January 31,
2021 and receives PUA benefits on or after December 27, 2020. Failure to supply said documents, and any other
relevant, requested documents is a justifiable basis to deny benefits under HAR § 12-5-81(j).

²⁹ These reasons are further defined or illustrated in UIPL 16-20, Change 4.

- (cc) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- (dd) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- (ee) The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- (ff) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
- (gg) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- (hh) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- (ii) The individual has to quit his or her job as a direct result of COVID-19;
- (jj) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
- (kk) The individual meets any additional criteria established by the US Secretary of Labor for unemployment assistance under PUA.

Additional criteria established by the US Secretary of Labor under item (kk)³⁰, above, includes:

- (1) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job;
- (2) The individual has been denied continued unemployment benefits because the individual refused to return to work or accept an offer of work at a worksite that, in either instance, is not in compliance with local, state, or national health and safety standards directly related to COVID-19. This includes, but is not limited to, those related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines;
- (3) An individual provides services to an educational institution or educational service agency and the individual is unemployed or partially unemployed because of volatility in the work schedule

³⁰ See Unemployment Insurance Program Letter 16-20 and 16-20, Change 5.

that is directly caused by the COVID-19 public health emergency. This includes, but is not limited to, changes in schedules and partial closures; and

- (4) An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.

Here, Appellant submitted a claim for PUA and FPUC benefits self-certifying, under penalty of perjury, that her unemployment was affected as a direct result of COVID-19 because her Employer's business was closed. While the business was not closed completely, it is clear that Appellant suffered a significant adverse employment action and diminution of income due to the onset of the pandemic. Specifically, on August 15, 2020, Appellant was terminated by her Employer because her position was eliminated due to financial difficulty and the lack of tourism or available customers in the CNMI.³¹ Appellant's Employment Certification and testimony at the Administrative Hearing established that the financial difficulty that the Employer suffered stemmed from the lack of tourism due to the complete shutdown of tourism activities in Saipan brought on by the COVID-19 pandemic. Based on the applicable law and the evidence provided, Appellant's employment was affected under item (kk)(4), listed above: Appellant is an employee who was laid off as a direct result of the COVID-19 public health emergency. Accordingly, the undersigned finds that Appellant's employment was affected as a direct result of COVID-19.

3. Appellant is not a qualified alien.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or

³¹ Exhibit 2.

1 8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty
2 in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

3 Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only
4 Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the
5 PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, "CW-1 workers may
6 receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed
7 after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021)."

8 Here, the Department's determination disqualified Appellant from PUA and FPUC benefits
9 from March 28, 2021 to September 4, 2021 because the Department found that on March 25, 2021
10 Appellant received her EAD noting Category C37 as the category valid from March 15, 2021 to
11 March 15, 2026 and EAD Category C37 is not a U.S. Citizen, Non-citizen National, or Qualified
12 Alien.

13 Based on the evidence provided, the undersigned finds that Appellant does not meet the
14 qualified alien definition above. First, although Appellant provided testimony and substantiating
15 evidence to demonstrate that she had a CW-1, her CW-1 was not valid for the time period that
16 she is claiming benefits. Appellant's CW-1 was valid from December 23, 2019 to September 30,
17 2020 and Appellant was claiming benefits from March 28, 2021 to September 4, 2021. Moreover,
18 CW-1 workers were not considered qualified aliens for purposes of PUA until after
19 December 27, 2020. Second, Appellant was unable to provide any documentary evidence to
20 substantiate her status under any of the qualified alien provisions. Appellant applied for CNMI
21 Long-Term Resident status and was granted the status from March 15, 2021 to March 15, 2026.
22 Appellant has an EAD to work in the CNMI under EAD Category C37, which is also valid from
23 March 15, 2021 to March 15, 2026. The SAVE Response results confirm indicated that Appellant
24 is a CNMI Long Term Resident with employment authorization approved under Category C37,
25 valid until March 15, 2026. Appellant's CNMI Long-Term Resident Status and EAD Category
26 C37 does not correspond to any qualified alien provision, listed above. Appellant has no other
27 documents or evidence to demonstrate that she is a qualified alien during the time period that she
28 is claiming benefits. Accordingly, Appellant was not a qualified alien at the time she claimed
unemployment benefits.

///

///

VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated June 17, 2021, is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 28, 2021 to September 4, 2021.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **29th** day of September, 2021.

/s/
CATHERINE J. CACHERO
Administrative Hearing Officer, *Pro Tem*

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) **PUA Case No. 21-0132**
)
Tae Won Park,)
)
Appellant,) **ADMINISTRATIVE ORDER**
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 21, 2021 at 1:30 p.m. and September 29, 2021 at 1:30 p.m. at the Administrative Hearing Office. Appellant Tae Won Park (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Appellee” or “Department”) was present and represented by Labor Certification Worker Dennis Cabrera. There were no other witnesses that provided testimony at the hearing. The Administrative Hearing was assisted by an interpreter, Seong Bin Lee. The following documents were admitted into evidence at the Administrative Hearing:

Exhibits:

1. Exhibit 1: Copy of the Appellant’s Application Snapshot (new), filed June 25, 2020;
2. Exhibit 2: Copy of the Appellant’s Application Snapshot (reopen), filed March 10, 2021;
3. Exhibit 3: Copy of Department’s Disqualifying Determination, dated June 17, 2021;
4. Exhibit 4: Copy of Appellant’s Request to file an Appeal, filed June 29, 2021;
5. Exhibit 5: Copy of Email Communication from the Department’s Benefit Payment Control Unit, dated September 16, 2021;
6. Exhibit 6: Copy of Appellant’s Employment Certification, dated May 14, 2020;
7. Exhibit 7: Copy of Appellant’s Employment Termination Letter, dated June 29, 2020;

8. Exhibit 8: Copies of Appellant's three CW-1 Visas with the following validity dates:
 - a. CW-1 visa issued November 3, 2014 and expiring April 18, 2015;
 - b. CW-1 visa issued September 18, 2015 and expiring April 18, 2016; and
 - c. CW-1 visa issued June 9, 2016 and expiring April 17, 2017.
9. Exhibit 9: Copies of two USCIS Forms I-797A, Notices of Action, dated May 2, 2017 and February 26, 2018;
10. Exhibit 10: Copy of Appellant's Employment Authorization Document, Category C12, valid from February 26, 2018 to December 31, 2018;
11. Exhibit 11: Copy of Appellant's E2 visa, valid from September 27, 2018 to September 3, 2023;
12. Exhibit 12: Copy of Department's SAVE verification results, initiated June 17, 2021;
13. Exhibit 13a: Copy of the Notice of Hearing, issued June 29, 2021;
14. Exhibit 13b: Copy of the Amended Notice of Hearing, issued September 15, 2021;
15. Exhibit 13c: Copy of the Second Notice of Hearing, issued September 22, 2021; and
16. Exhibit 14: Copy of the PUA Benefit Rights Information Handbook.

For the reasons stated below, the Department's Determination dated June 17, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 22, 2020 to September 4, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

1 (“ARPA”) extended the programs to September 6, 2021. The CNMI Department of Labor is
2 charged with the responsibility in administering the above-mentioned programs in the CNMI in
3 accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing Office
4 has been designated to preside over appeals of agency decisions.

5 Upon review of the records, the Appellant’s appeal is not timely filed. Accordingly,
6 jurisdiction is not established.

7 **III. PROCEDURAL BACKGROUND & ISSUES**

8 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
9 review of Appellant’s application and supporting documents, the Department issued a
10 Disqualifying Determination on June 17, 2021. On June 29, 2021, Appellant filed the present
11 appeal and the matter was scheduled for an Administrative Hearing on September 21, 2021 at
12 9:00 a.m.

13 On September 15, 2021, the undersigned issued an Amended Notice of Hearing continuing
14 and rescheduling the Administrative Hearing to September 21, 2021 at 1:30 p.m. due to the
15 availability of the interpreter.

16 The Administrative Hearing was conducted on September 21, 2021 at 1:30 p.m. During the
17 hearing, Appellant requested a continuance because he felt unwell. The Appellee had no
18 objections and agreed to the request for continuance. For good cause, the undersigned granted
19 the request and issued a Second Notice of Hearing continuing the Administrative Hearing to
20 September 29, 2021 at 1:30 p.m. The Administrative Hearing adjourned on September 29, 2021.

21 As stated in the Notices of Hearing, the issues on appeal are: (1) whether the appeal is timely
22 filed; (2) whether Appellant is eligible for PUA; and (3) whether an overpayment occurred and
23 funds should be returned.

24 **IV. FINDINGS OF FACT**

25 In consideration of the evidence provided and credibility of witness testimony, the
26 undersigned issues the following findings of fact:

- 27 1. Prior to the COVID-19 pandemic, Appellant was employed as a Hotel Operations Director

28 ⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 at Saipan LauLau Development, Inc., doing business as LaoLao Bay Golf & Resort
2 (“Employer”), located in Kagman village, Saipan, CNMI.⁵ As a Hotel Operations
3 Director, Appellant was paid a monthly salary of \$3,000.00.⁶

4 2. Due the economic impact of the pandemic, Employer implemented cost-cutting measures
5 that affected Appellant’s employment. Specifically, effective April 7, 2020, Appellant
6 was placed on leave without pay. Effective August 1, 2020, Appellant was terminated by
7 Employer.⁷

8 3. On or around June 25, 2020, Appellant submitted an application⁸ for unemployment
9 assistance under the PUA and FPUC programs administered by the Department.⁹ In the
10 initial application,¹⁰ Appellant self-certified under penalty of perjury that:

- 11 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
- 12 b. Appellant’s employment was directly affected by COVID-19 when Employer
13 closed the hotel due to the lack of tourists coming to Saipan, CNMI; and
- 14 c. Appellant’s employment was affected since March 23, 2020.¹¹

15 4. On or around March 10, 2021, Appellant submitted an application to reopen his claim for
16 unemployment assistance.¹² In his application to reopen, Appellant self-certified under
17 penalty of perjury that:

- 18 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
- 19 b. Appellant’s employment was directly affected by COVID-19 when Employer
20 closed the hotel due to the lack of tourists coming to Saipan, CNMI; and
- 21 c. Appellant’s employment was affected since March 23, 2020.¹³

22 5. With respect to Appellant’s immigration status and employment authorization, Appellant
23 provided testimony and substantiating evidence to demonstrate the following:

- 24 a. Appellant had a CW-1 visa with the following validity dates:
 - 25 i. CW-1 visa valid from November 3, 2014 to April 18, 2015;

26 ⁵ Exhibit 6.

27 ⁶ *Id.*

28 ⁷ Exhibit 7.

⁸ Exhibit 1.

⁹ *See id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *See* Exhibit 2.

¹³ *Id.*

- ii. CW-1 visa valid from September 18, 2015 to April 18, 2016; and
 - iii. CW-1 visa valid from June 9, 2016 to April 17, 2017.¹⁴
 - b. Appellant had a CW-2 visa, valid from April 18, 2017 to December 31, 2018;¹⁵
 - c. Appellant had an Employment Authorization Document (“EAD”), Category C12, valid from February 26, 2018 to December 31, 2018;¹⁶ and
 - d. Appellant currently has an E2 visa, valid from September 27, 2018 to September 3, 2023.¹⁷
6. Appellant provided testimony that he has no other documents or evidence to demonstrate that he is a qualified alien during the time period he is claiming benefits.
 7. On June 17, 2021, the Department entered Appellant’s information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the immigration status of PUA applicants so only those entitled to benefits receive them. The SAVE results confirmed that Appellant is an E2 visa holder.¹⁸
 8. On June 17, 2021, the Department issued a determination disqualifying Appellant from PUA and FPUC benefits from March 22, 2020 to September 4, 2021 because the Department found that Appellant does not meet the qualifications required under the CARES Act of 2020 for PUA.¹⁹ More specifically, the Department determined that during that period, Appellant had an E2 visa, valid from September 27, 2018 to September 3, 2023, and that as an E2 visa holder, Appellant is not a U.S. citizen, non-citizen national, or qualified alien.
 9. Department transmitted the Disqualifying Determination on the same day it was issued, June 17, 2021, via the method that the Appellant selected in his initial application and in his application to reopen, which is via email.
 10. Department testified and provided substantiating evidence to show that Appellant was provided with instructions on how to file his appeal. Appeal instructions could be found

¹⁴ Exhibit 8.

¹⁵ Exhibit 9.

¹⁶ Exhibits 9 and 10.

¹⁷ Exhibit 11.

¹⁸ Exhibit 12.

¹⁹ Exhibit 3.

1 in the PUA Benefits Rights Information Handbook, the Disqualifying Determination, and
2 the Appeal Form.²⁰

3 11. In his Appeal Form and during his testimony at the Administrative Hearing, Appellant
4 testified that he did not regularly review his email and he did not receive the Determination
5 until he opened his email on June 27, 2021.

6 12. On June 29, 2021, which two days after opening his emails and also two days after the
7 June 27, 2021 deadline to file his Appeal, Appellant filed the present appeal by submitting
8 his Appeal Form with the Administrative Hearing Office.²¹

9 13. On June 29, 2021, the matter was scheduled for an Administrative Hearing.²²

10 14. As discussed during the Administrative Hearing, Appellant is appealing the Department's
11 Determination for Disqualification, effective March 22, 2020 to September 4, 2021.

12 15. While the appeal was pending, and through testimony during the Administrative Hearing,
13 the Department confirmed there was no overpayment issue in this case because Appellant
14 has not received any unemployment benefits.²³

15 V. CONCLUSIONS OF LAW

16 In consideration of the above-stated findings and applicable law, the undersigned issues the
17 following conclusions of law:

18 1. Appellant's appeal is not timely filed.

19 Generally, an appeal should be filed within ten days after the Notice of Determination was
20 issued or served to the claimant. However, the Department may extend the period to thirty days
21 by a showing of good cause.²⁴ Good cause means: (1) illness or disability; (2) keeping an
22 appointment for a job interview; (3) attending a funeral of a family member; and (4) any other
23 reason which would prevent a reasonable person from complying as directed.²⁵

24 Here, on June 17, 2021, the Department issued and transmitted to the Appellant the
25 Disqualifying Determination on June 17, 2021 via email, which is the method that the Appellant
26 selected in his initial application and application to reopen.²⁶ As demonstrated and testified to by

27 ²⁰ See Exhibits 3, 4, and 14.

28 ²¹ Exhibit 4.

²² See Exhibits 3, 4, 13a, 13b, and 13c.

²³ Exhibit 5.

²⁴ HI. Rev. Statute § 383-38(a).

²⁵ HAR § 12-5-81(j).

²⁶ See Exhibits 1 and 2.

1 the Department, Appellant was provided with instructions on how to file his appeal through
2 multiple avenues. Specifically, Appeal instructions could be found in the Benefits Rights
3 Information Handbook, Appellant's Determination, and the Appeal Form.²⁷ The Determination
4 clearly stated that Appellant had 10 calendar days to file an appeal and that the appeal "**must be**
5 **received or postmarked by 6/27/2021.**" (Emphasis in original.)²⁸ However, Appellant did not
6 timely file his appeal because he did not routinely review his emails. In his Appeal Form and
7 during his testimony, Appellant testified that he did not review the Determination until he opened
8 his email until June 27, 2021.²⁹ Appellant did not submit his Appeal Form until two days later,
9 June 29, 2021, thus missing the deadline of June 27, 2021.³⁰

10 Notably, as acknowledged in his initial application and application to reopen, it is claimant's
11 responsibility to read the Benefit Rights Information Handbook and all published materials.³¹
12 Appellant failed to do so. Further, at the Administrative Hearing, Appellant stated that he did not
13 have any specific reason for failing to timely review his emails and he was simply not checking
14 his email or PUA application portal regularly. Generally, the failure to read and follow
15 instructions and the failure to timely review emails are not good cause for an extension.

16 Based on the above, the undersigned finds that Appellant failed to act within the 10-day
17 deadline. Moreover, the undersigned finds that Appellant failed to justify good cause for an
18 extension of the 10-day deadline. Accordingly, the undersigned finds that Appellant's appeal is
19 untimely filed. Because Appellant's Appeal is untimely, the Department's Determination is final
20 and the latter issues are moot. However, even if a 30-day extension was granted for good cause,
21 Appellant is still not eligible to receive PUA benefits for the period he claimed because he was
22 not a qualified alien as explained below.

23 **2. Appellant is not a qualified alien.**

24 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
25 eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time
26 relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

27 See Exhibits 3, 4, 14.

28 Exhibit 3.

29 See Exhibit 4.

30 *Id.*

31 See Exhibits 1 and 2.

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, "CW-1 workers may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021)."

Here, the Department's Determination disqualified Appellant from PUA and FPUC from March 22, 2020 to September 4, 2021 because the Department found that Appellant does not meet the qualifications required under the CARES Act of 2020 for PUA. Department determined that during that period, Appellant had an E2 visa, valid from September 27, 2018 to September 3, 2023, and that as an E2 visa holder, Appellant is not a U.S. citizen, non-citizen national, or qualified alien.

Based on the evidence and testimony provided, the undersigned finds that Appellant does not meet the qualified alien definition above. First, although Appellant provided testimony and substantiating evidence to demonstrate that he was a CW-1 worker, his CW-1 visas were not valid for the time period that he is claiming unemployment benefits. Appellant's CW-1 visas were valid for the following dates:

- CW-1 visa issued November 3, 2014 and expiring April 18, 2015;
- CW-1 visa issued September 18, 2015 and expiring April 18, 2016; and
- CW-1 visa issued June 9, 2016 and expiring April 17, 2017.³²

³² Exhibit 8.

1 All three of Appellant's CW-1 visas expired prior to CW-1 workers being considered
2 qualified aliens for purposes of PUA, which is after December 27, 2020.³³ Appellant currently
3 has an E2 visa, valid from September 27, 2018 to September 3, 2023.³⁴ This is the immigrant
4 status relevant to the period Appellant is claiming unemployment benefits. However, E2 visa
5 holders, like the Appellant, do not correspond with any qualified alien provision, listed above.
6 During the Administrative Hearing, Appellant testified he did not have any other status under any
7 qualified alien definition during the period he claimed unemployment benefits. Appellant was
8 also unable to provide any documentary evidence to substantiate his status under any of the
9 qualified alien provision. Accordingly, Appellant was not a qualified alien at the time he claimed
unemployment benefits.

10 VI. DECISION

11 For the reasons stated above, it is ORDERED that:

- 12 1. The CNMI Department of Labor's Disqualifying Determination, dated June 17, 2021, is
13 **AFFIRMED**; and
- 14 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 22,
15 2020 to September 4, 2021.

16 If a party is aggrieved by this Order and would like to contest the decision, he or she must
17 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The
18 written request should be supported by legal, factual, or evidentiary reasons to reopen the
19 decision. The written request must be submitted to the Administrative Hearing Office, either in
20 person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at
hearing@dol.gov.mp.

21 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
22 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant
23 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI
24 Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,

25
26
27 ³³ Appellant had a CW-2 visa, valid from April 18, 2017 to December 31, 2018, and an Appellant had an EAD,
28 Category C12, valid from February 26, 2018 to December 31, 2018. *See* Exhibits 9 and 10. Claimants with
CW-2 visa and EAD, Category C12, are not qualified alien.

³⁴ Exhibit 11.

1 filings fees, and filing deadlines for judicial review will be as established by the applicable law
2 and court rule.

3 So ordered this 8th day of October, 2021.

4 /s/

5 CATHERINE J. CACHERO

6 Administrative Hearing Officer, *Pro Tem*

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0136
)
Andrew L. Viola,)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, this matter came for an Administrative Hearing on October 5, 2021 at 9:00 a.m. at the Administrative Hearing Office, Saipan. Due to ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Andrew L. Viola ("Appellant") appeared telephonically. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program was present and represented by PUA Supervisor Zachary Taitano and PUA Coordinator Britney Takai (collectively, "Appellee").

During the Administrative Hearing on October 5, 2021, Appellant made a motion to dismiss his appeal stating that he wishes to dismiss his appeal because he understands that he is not eligible as a qualified alien with his status as CNMI Long Term Resident with Employment Authorization Document Category C37. Appellant also stated that he agreed with the amount of overpayment as stated in the Notice of Overpayment, dated September 28, 2021. The Appellant further represented at the Administrative Hearing a willingness and desire to discuss a payment plan and agreement with the Appellee. Appellee had no objection to Appellant's motion and agreed to the dismissal of this matter. Based on these statements made by the parties at the Administrative Hearing, the undersigned took Appellant's motion to dismiss under advisement pending the parties' discussions on the issue of overpayment, including whether a payment plan and agreement may be reached. Without any objection or opposition by the parties, the undersigned continued the Administrative Hearing for this matter to October 12, 2021 at 9:00 a.m.

On October 6, 2021, the parties gave written notice to the undersigned that the parties executed a Payment Plan Agreement, dated October 5, 2021. The parties also notified the undersigned that, on October 5, 2021, Appellant made partial payment towards the total amount owed in the amount of

1 \$50.00 and that Appellant will be making bi-weekly payments. Further, on October 6, 2021,
2 Appellant also submitted a written request to dismiss his appeal. Appellee agreed to the dismissal of
3 Appellant's appeal.

4 In consideration of the above, the undersigned finds that there are no issues pending on appeal
5 and dismissal of this appeal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the
6 Administrative Hearing scheduled on October 12, 2021 at 9:00 a.m. is **VACATED**. In the event that
7 the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

8 So ordered this 7th day of October, 2021.

9 /s/

10 **Catherine J. Cachero**
11 Administrative Hearing Officer, *Pro Tem*
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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0138
)
Leilanie Bartolome)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on October 12, 2021 at 9:00 a.m. On September 29, 2021, Appellant filed a written request to withdraw the appeal. Further, on October 4, 2021 the Department filed a Motion to Dismiss stating that the issues in dispute were resolved and no overpayment occurred.

In consideration of above, the undersigned finds that there are no issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for October 12, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **5th** day of October, 2021.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0139
Anita Tampus,)
Appellant,) ADMINISTRATIVE ORDER
v.)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on October 14, 2021 at 9:00 a.m. On September 27, 2021, Appellant filed a written request to withdraw the appeal. Shortly thereafter, the Department filed a Motion to Dismiss stating that the issues in dispute were resolved and no overpayment occurred.

In consideration of above, the undersigned finds that there are no issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for October 14, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this 28th day of September, 2021.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0140
)
Omar C. Custorio)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on October 19, 2021 at 9:00 a.m. On October 13, 2021, the Department filed a Motion to Dismiss confirming that the issues in dispute were resolved and the parties have entered into an agreeable payment plan. That same day, Appellant confirmed resolution and did not contest dismissal.

In consideration of above, the undersigned finds that the parties no issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for October 19, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **13th** day of October, 2021.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0150
)
Francisco R. Ada IV,)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on December 14, 2021 at 9:00 a.m. On October 18, 2021, Appellant, through his authorized representative, filed a written request to withdraw the appeal stating that his intention to pursue reconsideration instead.

In consideration of above, the undersigned finds that the scheduled hearing is premature and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for December 14, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **18th** day of October, 2021.

/s/

JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0158
)
Elaine V. Sarmiento)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on January 27, 2022 at 9:00 a.m. On October 5, 2021, Appellant filed a written request to withdraw the appeal having resolved the alleged issues with the Department. Further, on October 12, 2021 the Department filed a Motion to Dismiss confirming that the issues in dispute were resolved and the parties have entered into an agreeable payment plan.

In consideration of above, the undersigned finds that the parties no longer contest the issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for January 27, 2022 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **12th** day of October, 2021.

/s/

JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re Matter of:) PUA Case No. 21-0159
)
John Yves Atencio,)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on February 1, 2022 at 9:00 a.m. On October 5, 2021, Appellant filed a written request to withdraw the appeal having resolved the alleged issues with the Department. Further, on October 12, 2021 the Department filed a Motion to Dismiss confirming that the issues in dispute were resolved and the parties have entered into an agreeable payment plan.

In consideration of above, the undersigned finds that the parties no longer contest the issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for February 1, 2022 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this 12th day of October, 2021.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re the Matter of:) **Labor Case No. 20-023**
)
Chin-Shan Hsieh,)
)
Complainant,) **ORDER GRANTING RESPONDENT'S**
) **MOTION TO DISMISS FOR FAILURE**
) **TO STATE A CLAIM AND LACK OF**
v.) **SUBJECT MATTER JURISDICTION OF**
) **COMMON LAW CLAIMS**
New Plus Trading Corporation,)
)
Respondent.)

I. INTRODUCTION

This Order is pursuant to Respondent's Motion to Dismiss and Memorandum of Law in Support ("Respondent's Motion to Dismiss"). Based on a review of the applicable law and parties' filings, Respondent's Motion to Dismiss is hereby **GRANTED**.

II. BACKGROUND

On August 5, 2020, Complainant filed a labor complaint for unpaid wages under the CNMI Minimum Wage and Hour Act, unlawful termination, and forgery. Respondent did not file a response or answer to the allegations. On August 20, 2020, the matter was referred to Enforcement for further investigation. As a product of their investigation, Enforcement submitted a determination on November 17, 2020. Therein, Enforcement noted several contested allegations and found issues with respect to unpaid wages. Ultimately, Enforcement recommended a prehearing conference for the parties to clarify and establish their claims.

During the Prehearing Conference, the undersigned heard oral arguments with respect to the parties' then-pending motion filings. On May 24, 2021, the undersigned issued an Administrative Order which: (1) dismissed Complainant's claim for unlawful termination for failure to state a claim; (2) dismissed Complainant's claim for forgery for lack of subject matter jurisdiction; and (3) partially dismissed Complainant's claim for unpaid wages for failure to file within the six-month statute of limitations. Specifically, all claims arising on or before February 5, 2020 were time-barred.

1 The matter was scheduled for a hearing to determine the merits of Complainant's claim
2 for unpaid wages for the period of February 3, 2020 to May 12, 2020. However, during the
3 hearing, Complainant stated that his claim for unpaid wages was not based on the CNMI
4 Minimum Wage and Hour Act,¹ but common law principles, such as breach of contract. Based
5 on Complainant's arguments, the parties' were ordered to brief: (1) Whether Complainant can
6 state a claim for a violation of labor and wage laws of the Commonwealth; and (2) whether the
7 Administrative Hearing Office has jurisdiction over unpaid wages under common law theories of
8 law.

9 On August 5, 2021, Respondent filed a Motion to Dismiss and Memorandum of Law in
10 Support ("Respondent's Motion to Dismiss") for lack of subject matter jurisdiction. Therein,
11 Respondent argued that Complainant fails to state a claim for a violation under CNMI labor wage
12 and hour laws and regulations. Respondent further argues that the Administrative Hearing Office
13 does not have subject matter jurisdiction over common law claims of unpaid wages. On
14 September 7, 2021, Complainant filed In Response to CNMI Department of Labor and Opposition
15 to Respondent's Motion to Dismiss ("Complainant's Opposition"). There, Complainant fails to
16 identify the CNMI law or regulation that forms the basis of his unpaid wages claim. Instead,
17 Complainant generally relies of Public Law 15-108, the Administrative Procedures Act, and
18 flawed precedent to argue for the application of common law. On September 21, 2021,
19 Respondent filed a Reply to Opposition to Motion to Dismiss ("Respondent's Reply"). Therein,
20 Respondent argues that Complainant fails to identify a violation of CNMI labor laws and
21 regulations. Respondent further argues that Complainant fails to cite any relevant legal precedent
22 supporting the contention that the Administrative Hearing Office jurisdiction extends to common
23 law claims.

24 III. LEGAL STANDARD

25 "The Administrative Hearing Office shall have original jurisdiction to resolve all actions
26 involving alleged violations of the labor and wage laws of the Commonwealth, including but not
27 limited to any violation of this chapter and regulations promulgated thereunder." 3 CMC § 4942.
28 The Employment Rules and Regulations further provide:

¹ As opposed to the federal minimum wage of \$7.25 per hour, the CNMI Minimum Wage is currently set to \$3.05 per hour. 4 CMC § 9221.

1 The Administrative Hearing Office shall have jurisdiction over
2 complaints filed with the Administrative Hearing Office by **U.S.**
3 **Citizens, CNMI permanent residents or U.S. permanent residents,**
4 and agency complaints filed by the Department, with respect to
5 violations of the requirements of job preference and workforce
6 participation pursuant to the Commonwealth Employment Act of 2007,
7 as amended, and other violations of labor laws application in the
8 Commonwealth. ...

6 The Administrative Hearing Office shall have jurisdiction over
7 complaints filed with the Administrative Hearing Office by **foreign**
8 **national workers,**² and agency complaints filed by the Department,
9 with respect to violations of Commonwealth law and regulations
10 regarding employment and other labor laws applicable in the
11 Commonwealth. ...

10 The Administrative Hearing Office shall have jurisdiction over
11 complaints filed with the Administrative Hearing Office by other
12 **nonimmigrant aliens**³ with respect to violations of Commonwealth
13 law and regulations regarding employment.

13 NMIAC § 80-20.1-450(b)(1)-(3) (emphasis added). "Whenever it appears by suggestion of the
14 parties or otherwise that the agency lacks jurisdiction of the subject matter, the agency shall
15 dismiss the action." NMIAC § 80-20.2-145(c).

16 IV. DISCUSSION

17 Upon review of the applicable law and the parties' filings, the undersigned finds that
18 Complainant fails to state a claim within CNMI labor laws and regulations. Further, the
19 undersigned finds that the Administrative Hearing Offices lacks subject matter jurisdiction over
20 common law claims or theories. Accordingly, as further discussed below, dismissal of
21 Complainant's remaining claim is warranted.

22 ///
23 ///
24 ///

25 _____
26 ² "Foreign national worker" means a person who is not a United States citizen, a United States permanent resident, a
27 CNMI permanent resident, or an immediate relative of the United States citizen or a United States permanent resident,
28 or an immediate relative of a CNMI permanent resident, and who entered the CNMI as a nonimmigrant prior to
November 28, 2010 for the declared purpose of being employed in the Commonwealth." NMIAC § 80-20.1-080(k).

³ "Nonimmigrant alien" means a person described in Section 101(a)(15) of the Immigration and Nationality Act, 8
U.S.C. 1101(a)(15)." NMIAC § 80-20.1-080(p).

1 **1. Complainant fails to state a claim for unpaid wages under CNMI labor laws and**
2 **regulations.**

3 Based on the filings and allegations, the only viable claim that the undersigned could
4 discern⁴ was a potential violation of the CNMI Minimum Wage and Hour Act, codified under 4
5 CMC §§ 9211 et. seq. Thereunder, “[e]very employer, . . . shall pay to each employee employed
6 by him or her, a minimum wage as follows: Beginning July 1, 1996, at the rate of \$3.05 per hour.
7 See 4 CMC § 9221. Further, “[e]very employer shall furnish each employee at every pay period
8 a written statement showing the employee’s total hours works; overtime hours; straight time
9 compensation; overtime compensation; other compensation; total gross compensation; amount
10 and purpose of each deduction; total net compensation; date of payment; and pay period covered.”
11 4 CMC § 9232.

12 Here, Complainant is alleging unpaid wages of more than \$3.05 per hour. However, aside
13 from blanket or conclusory statements from Complainant, there is no showing of any work
14 performed or unpaid labor in violation of the CNMI Minimum Wage and Hour Act for the
15 applicable time period of February 3, 2020 to May 12, 2020. For this reason, Complainant fails
16 to state a claim for unpaid wages.

17 **2. The Administrative Hearing Office does not have subject matter jurisdiction**
18 **over common law claims or theories.**

19 Complainant’s Opposition heavily relies on a broad interpretation of Public Law 15-108,
20 the Administrative Procedures Act, and flawed precedent to argue that the Administrative Hearing
21 Office has jurisdiction over a claim for unpaid wages based on common law principles such as
22 breach of contract. The undersigned does not agree.

23 In previous cases, the Administrative Hearing Office applied common law principles⁵ and
24 declared that the Commonwealth Legislature’s grant of jurisdiction was broad enough to
25 encompass common law claims arising out of, and related to, the employment relationship.⁶

26 ⁴ While accommodations and liberal construction of pleadings, filings, or arguments are appropriate for pro se litigants
27 is provided, “there must be a limit.” Simply, it is beyond the Administrative Hearing Officer’s duty “to make or strain
28 to infer unfounded or baseless arguments on behalf of the party. Accordingly, where even a liberal construction would
not add meaning to the filings, dismissal is appropriate.” *Zajradhara v. Nippon General Trading Corporation*,
Secretary Appeal 2019-001, published at 41 Com. Reg. 042092 (June 28, 2019).

⁵ See *Togawa v. Imperial Pacific International (CNMI) LLC*, Labor Case 16-026, published at 41 Com. Reg. 043190
(May 28, 2019).

⁶ See *Sevugan v. ABO International Corporation*, LC-16-017, published at 41 Com. Reg. 041897 (May 28, 2019).

1 However, upon further review, the undersigned finds that said precedent is a flawed
2 misapplication of law.

3 Simply, the precedent violates the separation of powers, canons of statutory construction,
4 and general principles of administrative law. The Commonwealth Constitution provides for a
5 tripartite system of government, which gives rise to the separation of powers doctrine. The
6 separation of powers operates in a broad manner to confine legislative powers to the legislature,
7 executive powers to the executive, and those powers that are judicial in character to the
8 judiciary. *Commonwealth v. Lot No. 218-5 R/W*, 2016 MP 17 ¶ 8. The legislature cannot exceed
9 its constitutional authority, it cannot pass a law that conflicts with the Commonwealth
10 Constitution, and it cannot delegate the functions of a constitutional entity to another
11 governmental body. *Dep't of Publ. Lands v. Commonwealth*, 2010 MP 14 ¶ 24. Agency power is
12 conferred by legislation or executive or judicial order and is properly viewed as a means of
13 facilitating the exercise of the governmental power vested in that body which created the
14 agency. *Northern Marianas College v. Civil Serv. Comm'n*, 2006 MP 4 ¶ 10.⁷ However, an
15 agency cannot enlarge its jurisdiction or authority.⁸ Moreover, the agency's interpretation of its
16 governing statute may not conflict with the language chosen in the grant of authority. *Bauer v.*
17 *McCoy*, 1 CR 248. Generally, administrative law deals with non-autonomous agencies that
18 exercise limited discretion through a predefined process. Such agencies have no inherent rights,
19 and *may only exercise the authority vested in them by constitution or statute*. *Northern*
20 *Marianas College v. Civil Service Commission*, 2006 MP 4 ¶ 8 (emphasis added). Agencies are
21 given the authority to make discretionary decisions over a *limited range of matters*. *Northern*
22 *Marianas College v. Civil Service Commission*, 2006 MP 4 ¶ 10 (emphasis added). Accordingly,
23 based on above, the prior hearing officer's decision to enlarge jurisdiction was improper.

24 Here, Complainant's claim for unpaid wages appears to be based on a breach of contract
25 for services, among other things. As discussed above, Complainant fails to identify or provide
26 sufficient allegations of his claims. However, as shown above, the Administrative Hearing Office

27 ⁷ Generally, "an administrative agency is a creature of statute, having only those powers expressly granted to it by
28 Congress or included by necessary implication from the Congressional grant." *Soriano v. United States*, 494 F. 2d
681, 683 (9th Cir. 1974) (citations omitted). If an administrative agency acts in excess of its statutory jurisdiction,
power or authority, or limitations, court shall review the agency action and set aside any action in excess of its
authority. *Seman v. Aldan*, 2 CR 916, *aff'd*, 3 CR 152 (DNMI App. Div. 1987).

⁸ An administrative agency may not enlarge its powers by waiving a time limit which is jurisdictional or a prerequisite
to the action taken. *Seman v. Aldan*, 2 CR 916, *aff'd*, 3 CR 152 (DNMI App. Div. 1987).

1 does not have subject matter jurisdiction over common law claims. For this reason, dismissal is
2 appropriate.

3 V. CONCLUSION

4 Based on above, Respondent's Motion to Dismiss is hereby **GRANTED**. This matter is
5 hereby **DISMISSED**. Any and all pending deadlines and hearings in this matter shall be
6 **VACATED**.

7 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form
8 and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of
9 this Order.⁹

10 So ordered this **28th** day of September, 2021.

11 /s/

12 **JACQUELINE A. NICOLAS**
13 Administrative Hearing Officer
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28 ⁹ The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the
Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative
Hearing Office, with the applicable filing fee.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



In Re the Matter of:

Glenn Patrick Bell and Corrado Modica,

Complainants,

v.

Imperial Pacific International (CNMI) LLC,

Respondent.

) Consolidated Labor Case Nos.
) 20-025 to 20-026

) ORDER GRANTING COMPLAINANTS'
) MOTION TO DISMISS FOR LACK OF
) SUBJECT MATTER JURISDICTION OF
) COMMON LAW CLAIMS

I. INTRODUCTION

This Order is pursuant to Complainants' Motion to Dismiss for lack of subject matter jurisdiction ("Complainants' Motion to Dismiss"). Based on a review of the applicable law and Complainants' filing, Complainants' Motion to Dismiss is hereby **GRANTED**.

II. BACKGROUND

On September 10, 2020, the complainants filed a complaint for unfair dismissal and discrimination. *See* Complaint. On September 30, 2020, the matter was referred to the Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") for further investigation. On December 4, 2020, Enforcement issued a determination stating, "[o]n August 25, 2020, Complainant[s] [were] issued a termination letter," effective immediately. Based on Enforcement's investigation, the terminations were due to "violations pursuant to Section 6 § 6.2 of the employee handbook." *See* Determination. Without any citation to or application of CNMI law, Enforcement recommended "Respondent pay the Complainant[s] up to the end of [their] visa which is [January 30, 2021] in the amount approved by the Hearing Officer." *See* Determination. During the prehearing conference, Complainants clarified their claim against Respondent to be a claim for unlawful termination. *See* Complainants' Prehearing Statement.¹ Subsequently, the matter was scheduled for an Administrative Hearing – to which Respondent failed to appear. On

¹ An amended complaint and supporting allegations were never filed at the Administrative Hearing Office.

February 5, 2021, due to Respondent's failure to appear, default judgment was entered in favor of Complainants pursuant to NMIAC § 80-20.1-480 9(l) and Complainants were ordered to submit additional briefing to establish the amount of damages.

A review of Complainants' Damages Calculation ("Complainant's Calculation")² and an evidentiary hearing to establish the amount of damages prompted issues and ambiguity as to Complainants' specific claim under CNMI law and the types of damages authorized under said statute or regulation. Specifically, available relief differs based on dismissal under the unlawful reduction in force statute,³ breach of employment contract,⁴ and in violation of public policy⁵. Accordingly, the undersigned directed the record to be reopened for the limited issues of specifying the statute or regulation within the Administrative Hearing Office's jurisdiction⁶ and bringing the request for damages in compliance with the available relief.

On May 7, 2021, Complainants filed Complainants' Memorandum of Law in Support of Claim for Damages ("Complainants' Memorandum").⁷ Instead of addressing the specific issues presented in the Order to Reopen the Record and Submit Additional Filings, Complainants argued that the issue is "what is included in the definition of 'contract damages' or 'damages for unlawful termination' as contained within the statute and regulations" and does not cite or otherwise specify the statute or regulation for unlawful termination within the undersigned's jurisdiction. Subsequently, Complainants argue that the Administrative Hearing Office must turn to common law to determine the meaning of the terms "contract damages" or "damages for unlawful termination."

² Specifically, Complainants requested damages for prospective wages, consequential damages in lost income stemming from a separate agreement with a different company, living expenses, transportation costs, cost of repatriation, pain and suffering, loss or damage to reputation, and reasonable attorneys' fees.

³ See 3 CMC § 4937 ("An employer who employs foreign national workers may reduce the number of current employees based on economic necessity. The employer shall provide notice to the Department at least sixty days prior to the reduction in force." See also NMIAC § 80-20.1-240 ("Before the commencement of a reduction in force, an employer shall give at least 60 days written notice to the Department and at least 30 days notice to each affected employee."). See also 42 Com. Reg 044008 (Aug. 28, 2020).

⁴ See NMIAC § 80-20.1-455(g) ("Any employer or employee may file a complaint with the Administrative Hearing Office regarding. . . any breach of an [approved] employment contract."); see also NMIAC 80-20.1-080 ("Approved employment contract" means a written contract between a foreign national worker and an employer, which has been approved by the Secretary [of Labor], specifying the terms and conditions of work to be performed by the foreign national worker within the Commonwealth."). However, since the federalization of immigration, the Secretary of Labor no longer reviews or approve foreign labor contracts.

⁵ The Administrative Hearing Office does not have jurisdiction over EEOC claims regarding discrimination. See 41 Com. Reg. 042129 (June 28, 2019).

⁶ 3 CMC § 4942; NMIAC § 80-20.1-450; See 43 Com. Reg. 045473 (Mar. 28, 2021).

⁷ Complainants' Damages Calculation and Memorandum were served to Respondent on August 27, 2021.

Upon review of the applicable law and Complainants' filings, default judgment was vacated on September 10, 2021. Complainants were ordered to show cause why the case should not be dismissed for lack of jurisdiction or file an amended complaint. On September 22, 2021, Complainants filed the present motion to dismiss pursuant to NMIAC § 80-20.2-130(c)(1)(i)(A).

III. DISCUSSION

"Whenever it appears by suggestion of the parties or otherwise that the agency lacks jurisdiction of the subject matter, the agency shall dismiss the action." NMIAC § 80-20.2-145(c). "The Administrative Hearing Office shall have original jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth, including but not limited to any violation of this chapter and regulations promulgated thereunder." 3 CMC § 4942. The Employment Rules and Regulations further provide:

The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by **U.S. Citizens, CNMI permanent residents or U.S. permanent residents**, and agency complaints filed by the Department, with respect to violations of the requirements of job preference and workforce participation pursuant to the Commonwealth Employment Act of 2007, as amended, and other violations of labor laws application in the Commonwealth. ...

The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by **foreign national workers**,⁸ and agency complaints filed by the Department, with respect to violations of Commonwealth law and regulations regarding employment and other labor laws applicable in the Commonwealth. ...

The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by other **nonimmigrant aliens**⁹ with respect to violations of Commonwealth law and regulations regarding employment.

NMIAC § 80-20.1-450(b)(1)-(3) (emphasis added).

⁸ "Foreign national worker" means a person who is not a United States citizen, a United States permanent resident, a CNMI permanent resident, or an immediate relative of the United States citizen or a United States permanent resident, or an immediate relative of a CNMI permanent resident, and who entered the CNMI as a nonimmigrant prior to November 28, 2010 for the declared purpose of being employed in the Commonwealth." NMIAC § 80-20.1-080(k).

⁹ "Nonimmigrant alien" means a person described in Section 101(a)(15) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)." NMIAC § 80-20.1-080(p).

1 In previous cases, the Administrative Hearing Office applied common law principles¹⁰
2 and declared that the Commonwealth Legislature's grant of jurisdiction was broad enough to
3 encompass common law claims arising out of, and related to, the employment relationship.¹¹
4 However, upon further review, the undersigned finds that said precedent is a flawed
misapplication of law.

5 Simply, the precedent violates the separation of powers, canons of statutory construction,
6 and general principles of administrative law. The Commonwealth Constitution provides for a
7 tripartite system of government, which gives rise to the separation of powers doctrine. The
8 separation of powers operates in a broad manner to confine legislative powers to the legislature,
9 executive powers to the executive, and those powers that are judicial in character to the
10 judiciary. *Commonwealth v. Lot No. 218-5 R/W*, 2016 MP 17 ¶ 8. The legislature cannot exceed
11 its constitutional authority, it cannot pass a law that conflicts with the Commonwealth
12 Constitution, and it cannot delegate the functions of a constitutional entity to another
13 governmental body. *Dep't of Publ. Lands v. Commonwealth*, 2010 MP 14 ¶ 24. Agency power is
14 conferred by legislation or executive or judicial order and is properly viewed as a means of
15 facilitating the exercise of the governmental power vested in that body which created the
16 agency. *Northern Marianas College v. Civil Serv. Comm'n*, 2006 MP 4 ¶ 10.¹² However, an
17 agency cannot enlarge its jurisdiction or authority.¹³ Moreover, the agency's interpretation of its
18 governing statute may not conflict with the language chosen in the grant of authority. *Bauer v.*
19 *McCoy*, 1 CR 248. Generally, administrative law deals with non-autonomous agencies that
20 exercise limited discretion through a predefined process. Such agencies have no inherent rights,
21 and *may only exercise the authority vested in them by constitution or statute*. *Northern*
22 *Marianas College v. Civil Service Commission*, 2006 MP 4 ¶ 8 (emphasis added). Agencies are
23 given the authority to make discretionary decisions over a *limited range of matters*. *Northern*

24 ¹⁰ See *Togawa v. Imperial Pacific International (CNMI) LLC*, Labor Case 16-026, published at 41 Com. Reg.
043190 (May 28, 2019).

25 ¹¹ See *Sevugan v. ABO International Corporation*, LC-16-017, published at 41 Com. Reg. 041897 (May 28, 2019).

26 ¹² Generally, "an administrative agency is a creature of statute, having only those powers expressly granted to it by
27 Congress or included by necessary implication from the Congressional grant." *Soriano v. United States*, 494 F. 2d
681, 683 (9th Cir. 1974) (citations omitted). If an administrative agency acts in excess of its statutory jurisdiction,
28 power or authority, or limitations, court shall review the agency agency and set aside any action in excess of its
authority. *Seman v. Aldan*, 2 CR 916, *aff'd*, 3 CR 152 (DNMI App. Div. 1987).

¹³ An administrative agency may not enlarge its powers by waiving a time limit which is jurisdictional or a
prerequisite to the action taken. *Seman v. Aldan*, 2 CR 916, *aff'd*, 3 CR 152 (DNMI App. Div. 1987).

1 *Marianas College v. Civil Service Commission*, 2006 MP 4 ¶ 10 (emphasis added). Accordingly,
2 based on above, the prior hearing officer's decision to enlarge jurisdiction was improper.

3 Based on the parties' filings, jurisdiction over the alleged claims have not been
4 established. Further, Complainants do not contest dismissal for lack of jurisdiction.

5 **IV. CONCLUSION**

6 Accordingly, dismissal pursuant to NMIAC § 80-20.2-130(c)(1)(i)(A) and NMIAC § 80-20.2-
7 145(c) is appropriate. Based on above, Complainants' Motion to Dismiss is hereby **GRANTED**.
8 Any and all pending deadlines and hearings in this matter shall be **VACATED**.

9 So ordered this **28th** day of September, 2021.

10 /s/

11 **JACQUELINE A. NICOLAS**
12 Administrative Hearing Officer
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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY



In Re Matter of:) Compliance Agency Case No. 20-001-09
) Secretary Appeal No. 21-003
Imperial Pacific International (CNMI), LLC,)
)
Appellant,) **FINAL AGENCY DECISION**
)
v.)
)
CNMI Department of Labor,)
)
Appellee.)

I. INTRODUCTION

On June 15, 2021, the Department of Labor (“Appellee”) filed a compliance agency case against Imperial Pacific International (CNMI), LLC (“Appellant”) for failure to submit required documents under 3 CMC § 4967.¹ After a hearing was scheduled and a notice was served to the parties’ designated contact information, the matter was heard on August 24, 2021. Appellant failed to appear for the Administrative Hearing, despite sufficient notice and service of process. Subsequently, the Administrative Hearing Office issued an Administrative Order based on the applicable law and available evidence.

On September 8, 2021, Appellant filed a timely Notice of Appeal to contest the Administrative Order of Decision in Compliance Agency Case 20-001-09. The basis of the appeal is not a factual error, evidentiary mistake, or other legal error. Instead, Appellant simply seeks relief from the \$2,000 sanction for each 22 violations. Based upon a review of the record and applicable law, the Administrative Hearing Office’s decision issued on August 24, 2021 is **AFFIRMED**.

///

¹ Pursuant to 3 CMC § 4967, “[a]ny employer of any foreign national worker shall keep, and present *immediately* upon demand ... (a) Personnel records for each foreign worker ... (b) Payroll records for each foreign national worker ... (c) Documentation for each foreign national worker ... and (d) Business license and any other information of documentation required by regulations.” (Emphasis added). In addition to the above-stated documents, the regulations require employers to submit compliance documents such as the quarterly Total Workforce Listing and yearly Workforce Plan. See NMIAAC §§ 80-20.1.505(b) and 80-20.1-510.

II. LEGAL STANDARD

“An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee . . .” NMIAC 80-20.1-490(a). “The record before the Secretary consists of the complaint, pleadings filed, exhibits, and order of the hearing officer.” NMAIC § 80-20.1-490(c). “When the Secretary is exercising jurisdiction over appeals from final orders of the Administrative Hearing Office, the Secretary shall have all the powers and responsibilities of a hearing officer. No hearing or oral argument on an appeal is required.” NMIAC 80-20.1-490(d). “In a review on appeal, the Secretary may restrict review to the existing record, supplement the record with new evidence, hear oral argument, or hear the matter de novo pursuant to 1 CMC §§ 9109 and 9110. Upon completion of review, the Secretary shall affirm, reverse or modify the findings, decision, or order of the hearing office.” NMIAC § 80-20.1-490 (e).

III. DISCUSSION

Here, Appellant is requesting relief from the Administrative Hearing Office’s sanction of \$44,000 or \$2,000 for each of the 22 violations for failure to submit required documents. Notably, Appellant fails to provide sufficient basis to warrant reversal or modification of the Administrative Hearing Office’s findings, decisions, or order. Specifically, Appellant fails to assert any factual, evidentiary or legal mistake in the Administrative Hearing Office’s decision.² Instead, Appellant states, among other things, that the relevant employees were paid, the hearing was missed due to the shutdown of their email service and staff departure, and the underlying labor cases were resolved by February 28, 2021.

Notably, Appellant’s arguments are not persuasive because it diverts from the fact that the record demonstrates that the violations clearly occurred. Specifically, 22 employees filed labor complaints against Appellant and Appellant failed to immediately participate with the investigative proceedings when documents were requested. While the undersigned recognizes that Appellant has finally filed some of the required documents along with this appeal, these

² It is beyond the hearing officer or Secretary’s role to develop or make legal arguments for a party’s request for relief. Generally, a party waives an issue or argument that is has not sufficiently developed. *In re Estate of Camacho*, 2012 MP 8 ¶ 12 n.7 (lack of legal authority); *Commonwealth v. Minto*, 2011 MP 14 ¶ 46 n.8 (lack of legal authority and analysis); *Guerrero v. Dep’t of Public Lands*, 2011 MP 3 ¶ 24 (lack of legal authority or public policy); *In re Malite*, 2010 MP 20 ¶ 37 n.27 (lack of argument); *Fitia v. Kyung Duk*, 2001 MP ¶ 18 (lack of legal authority); *Roberto v. De Leon Guerrero*, 4 NMI 295, 297-98 (1995) (lack of legal authority); *In re Blankenship*, 3 NMI 209, 216 (1992) (lack of analysis).

1 documents were submitted over one year after the underlying labor case was initiated,
2 approximately seven months after the documents were requested, and three months after the
3 compliance agency case was initiated for these violations. Simply, it is too late. Employers are
4 expected to immediately cooperate and comply with 3 CMC § 4967—especially when there is a
5 multitude of labor violations alleged against them. Although the COVID-19 pandemic has
6 significantly impacted businesses in the CNMI, employers are not excused from being responsible
7 in their employment practices and diligent about their pending labor cases. The law must be
8 followed and employers must be held accountable for failing to follow the law.

9 Moreover, the undersigned finds that the law and record support the sanction. The
10 Department is responsible for upholding the CNMI labor laws and regulations. If, after notice and
11 an opportunity to be heard, a company has been found to violate the above-stated laws, the
12 Administrative Hearing Officer has authority to sanction or levy a fine not to exceed two thousand
13 dollars *for each* violation of the CNMI labor laws and impose any other sanction, order, or relief
14 as may reasonably give effect to the requirements of Commonwealth law. 3 CMC § 4528 (f); *see*
15 NMIAC § 80-20.1-485(c) (emphasis added). When an employer fails to participate in the
16 investigative proceedings by failing to update the Department of the requisite contact
17 information,³ allowing served orders and notices to be ignored, and failing to designate a
18 representative to appear for multiple administrative hearings – the maximum sanction is
19 warranted. There is no excuse for this level of inaction or lack of diligence. Based on above, the
20 undersigned finds that \$44,000 sanction was within the Administrative Hearing Office’s authority
21 and appropriate under the circumstances.

22 IV. CONCLUSION

23 Accordingly, pursuant to NMIAC § 80-20.1-490(e), the Administrative Hearing Officer’s
24 decision is **AFFIRMED**. Appellant’s sanction of \$44,000 is appropriate and warranted. Payment
25 shall be made to the CNMI treasury by check or money order within thirty (30) days of the date
26 of this Order. Failure to comply with the payment terms of this order shall be subject to additional

27 ³ Employers and employees are responsible for keeping contact information in the Department’s records up to date
28 and accurate. NMIAC § 80-20.1-475. Appellant submitted a form with the designated contact information for service
of process. Upon the resignation of CEO Browne, the contact information was supplemented. All relevant documents
were served to the contact information provided.

1 monetary sanctions of up to twenty-five dollars per day until the obligation is satisfied.⁴ The
2 additional sanction shall apply without the need for any additional hearing.

3
4 This Order constitutes a **FINAL AGENCY DECISION**. In the event a party aggrieved
5 by this Order would like to dispute or contest this decision, said party may seek judicial review
6 with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC §
7 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the
8 applicable law and court rule.

9 So ordered this 28th day of September, 2021.

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12 **VICKY BENAVENTE**
13 Secretary of Labor
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⁴ 1 CMC § 4964(n).