

A BILL FOR AN ACT

To further amend sections 401, 402, 403, 404, 407, 408 and 409 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 12-77 and 14-49 and adding a new section 411, to realign the name of the Plan, clarify the role of the Administrator, improve and expand the services of MiCare, expressly provide for legal counsel and jurisdiction over claims, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 401 of title 52 of the Code of the
2 Federated States of Micronesia, as amended, is hereby amended to
3 read as follows:

4 "Section 401. Short title. This chapter shall be known
5 as the [~~National Government Employee' Act of 1984~~]
6 MiCare Health Insurance Plan."

7 Section 2. Section 402 of title 52 of the Code of the
8 Federated States of Micronesia, as amended by Public Law No.
9 12-77, is hereby further amended to read as follows:

10 "Section 402. Definitions. As used in this chapter:

11 (1) 'Administrator' means the [~~National Government~~
12 ~~Employees~~] MiCare Health Insurance Plan Administrator
13 established by the provisions of this chapter.

14 (2) 'Agency' means any municipal, State or
15 National Government public agency, institution or
16 entity.

17 (3) 'Board' or 'Board of Directors' means the
18 [~~National Government Employees~~] MiCare Health Insurance
19 Plan Board of Directors established under the provisions

1 of this chapter.

2 (4) 'Business' means any quasi-public or private
3 business entity which is duly licensed to do business
4 under, and is doing business under, the laws of the
5 Federated States of Micronesia or its political
6 subdivisions, which is also a participant in the Social
7 Security system of the Federated States of Micronesia,
8 and which has been qualified to participate in the plan
9 pursuant to the regulations promulgated by the Director
10 under section 409 of this chapter.

11 (5) 'Costs of administration' means the following
12 costs of administering the [ø]Plan:

13 (a) wages or salaries for personnel engaged in
14 administering the [ø]Plan;

15 (b) necessary travel for personnel engaged in
16 administering the [ø]Plan;

17 (c) costs and expenses for training of personnel
18 engaged in administering the [ø]Plan;

19 (d) the costs of processing claims;

20 (e) the costs of printing informational booklets,
21 claim forms, and other necessary materials;

22 (f) the costs of necessary supplies and
23 equipment;

24 (g) the costs of communications necessary to the
25 operation of the [ø]Plan;

1 (h) the costs of professional services necessary
2 to the operation of the [p]Plan.

3 (6) 'Dependents' means:

4 (a) the members of an [~~employee's~~] enrollee's
5 immediate family, including grandchildren, [~~dependent~~]
6 parents, and [~~dependent~~] parents-in-law.

7 (7) 'Employee' means an employee of the National
8 Government of the Federated States of Micronesia, an
9 employee of a participating agency, or an employee of a
10 participating business.

11 (8) 'Full-time employee' means an employee who works
12 at least thirty-two hours of the regular and scheduled
13 workweek.

14 (9) 'Full-time student' means a student who is a
15 dependent of an enrollee and is currently enrolled in
16 classes on a full-time basis [~~totaling 12 or more~~
17 ~~semester units~~] at an accredited post-secondary
18 educational institution, or other educational
19 institutional approved by MiCare.

20 (10) 'Participating agency' or 'participating
21 agencies' means any public agency, public institution or
22 other public entity, either municipal, State or
23 National, participating in the plan pursuant to section
24 403 of this chapter.

25 (11) 'Participating business' or 'participating

1 businesses' means any business entity, whether quasi-
2 public or privately owned, participating in the [p]Plan
3 pursuant to section 403 of this chapter.

4 (12) 'Plan' means the [~~National Government Employees~~]
5 MiCare Health Insurance Plan."

6 Section 3. Section 403 of title 52 of the Code of the
7 Federated States of Micronesia, as amended by Public Laws Nos.
8 14-49 and 15-52, is hereby further amended to read as follows:

9 "Section 403. Eligibility.

10 (1) All full-time employees of the National Government
11 of the Federated States of Micronesia shall participate
12 in the [p]Plan.

13 (2) Other persons who may participate in the [p]Plan
14 are:

15 (a) The full-time employees of each participating
16 agency and business which has entered into a contract
17 with the [~~Director, as~~] [a]Administrator of the [p]Plan,
18 whereby such agencies or businesses have agreed to
19 participate in the [p]Plan.

20 (b) The dependents of full-time employees of the
21 National Government, participating agencies and
22 participating businesses;

23 (c) Members of an employee's household who are
24 dependent upon the employee, but are not otherwise
25 defined as "'dependents'" under the provisions of this

1 act, if the employee pays 100 percent of the premiums
2 for such persons to the [p]Plan;

3 (d) Government employees whose State or agency
4 does not participate in the [p]Plan, and their
5 dependents, if they pay 100 percent of the premiums for
6 themselves and the dependents to the [p]Plan; and

7 (e) Former enrollees in the [p]Plan, and their
8 dependents, if they pay 100 percent of the premiums for
9 themselves and their dependents to the plan; and

10 (f) Full-time students enrolled at any post-
11 secondary institution in the FSM, if the post-secondary
12 institution has entered into a contract of participation
13 with the plan and the students pay 100 percent of the
14 premiums for themselves to the pPlan."

15 (g) Subject to eligibility requirements and
16 premium rates to be established by Regulations, FSM
17 citizens residing outside FSM."

18 Section 4. Section 404 of title 52 of the Code of the
19 Federated States of Micronesia, as amended by Public Law No.
20 12-77, is hereby further amended to read as follows:

21 "Section 404. Establishment of [Employees'] MiCare
22 Health Insurance Fund.

23 (1) There is established a [~~National Government~~
24 ~~Employees'] Micare Health Insurance Fund, [~~hereinafter~~
25 ~~'Employees' Health Insurance Fund'] which shall be~~~~

1 separate from the General Fund or other funds. All sums
2 appropriated by Congress representing contributions of
3 the National Government to the [p]Plan, all sums
4 representing contributions of participating agencies to
5 the [p]Plan, and all employee contributions to the
6 [p]Plan, shall be deposited in the [Employees]' MiCare
7 Health Insurance Fund. Any unexpended money in the
8 ~~[Employees']~~ MiCare Health Insurance Fund shall not
9 revert to the General Fund or lapse at the end of the
10 fiscal year, but shall remain in the Employees' Health
11 Insurance Fund.

12 (2) The Board of Directors shall have the sole
13 authority to administer the [Employees]' MiCare Health
14 Insurance Fund in accordance with regulations
15 promulgated under this act. The Board shall maintain
16 ~~[this Employees']~~ the MiCare Health Insurance Fund in a
17 separate custodial trust account and may, from time to
18 time, invest such moneys that are in excess of the
19 amount deemed necessary for the operation of the [p]Plan
20 during the reasonable future. Such investments shall be
21 low-risk and made in consultation with ~~[the Secretary of~~
22 ~~the Department of Finance]~~ certified investment
23 consultants. The investments shall at all times be made
24 so that all of the assets of the [Employees]' MiCare
25 Health Insurance Fund shall be readily convertible into

1 cash when needed for the purpose of this act. All
2 income earned on these investments shall be deposited
3 into the [~~Employees~~] MiCare Health Insurance Fund."

4 Section 5. Section 407 of title 52 of the Code of the
5 Federated States of Micronesia, as amended by Public Law No. 12-77
6 and 14-49, is hereby further amended to read as follows

7 "Section 407. Health Insurance Plan Board of Directors
8 and Administrator.

9 (1) Creation. There is hereby established a [~~National~~
10 ~~Government Employees~~] ' MiCare Health Insurance Plan
11 Board of Directors to oversee the Plan and the assets of
12 the [~~Employees~~] MiCare Health Insurance Fund. There is
13 also hereby established a new full-time position of
14 [~~National Government Employees~~] ' MiCare Health Insurance
15 Plan Administrator. The Administrator shall be
16 appointed by the Board.

17 (2) Composition. [~~The National Government~~
18 [~~Employees~~] MiCare Health Insurance Plan Board of
19 Directors shall consist of [~~not less than seven (7)~~
20 five (5) voting members, including one representative
21 from each State of the Federated States of Micronesia,
22 who shall be recommended by the Governor of the relevant
23 State; and one representative from the National
24 Government of the Federated States of Micronesia; [~~one~~
25 ~~representative from the private healthcare sector,~~] and

1 the Administrator. Each appointed member of the Board
2 shall be appointed by the President with the advice and
3 consent of the Congress. The Administrator shall serve
4 as ex officio non-voting member of the Board. In the
5 event of a deadlock or an evenly divided vote only, the
6 Administrator may vote. All members of the Board shall
7 be voting members of the Board.

8 (3) Terms. Each appointed member of the Board shall
9 serve for a period of three (3) years, except that
10 initial appointments to the Board shall be made as
11 follows: two members for a period of one year; two
12 members for a period of two years; and two members for a
13 period of three years. Successors to the first
14 appointees hereunder shall be appointed for terms of
15 three years each. Vacancies other than by expiration of
16 term shall be filled by the President by appointment, in
17 the same manner as the original appointment was made,
18 for the unexpired term. Appointed members shall not
19 hold-over at the expiration of their terms, but may be
20 re-appointed to consecutive terms in the manner set
21 forth in this section.

22 (4) Organization. The Board shall provide for its own
23 organization and procedure, except that the Board shall,
24 at a minimum, designate a Chairman and a Secretary. The
25 Secretary shall keep all records of, and actions taken

1 by, the Board. These records shall be open to the
2 public for public inspection. The Secretary of Justice
3 of the Federated States of Micronesia shall act as legal
4 advisor to the Board, except the Board of Directors is
5 authorized to retain private counsel in case of conflict
6 of interest or under special circumstances. The
7 Administrator may retain private counsel, as needed.

8 (5) Meetings. The Board shall meet at least once
9 every 6 months. Meetings may be held at any time or
10 place within the FSM to be determined by the Board upon
11 the call of the Chairman or upon written request of any
12 four (4) members. All meetings shall be open to the
13 public and public notice of the time and place of such
14 meetings shall be posted in public places and shall be
15 announced on radio and television throughout the FSM and
16 in newspapers of general circulation in the FSM. Four
17 (4) members of the Board shall constitute a quorum for
18 the transaction of business.

19 (6) Compensation. Members of the Board shall [~~be paid~~
20 ~~at a rate established by the Board when actually~~
21 ~~performing their duties under this chapter; provided~~
22 ~~that official and employees of the state government or~~
23 ~~the Government of the Federated States of Micronesia who~~
24 ~~are members of the Board shall not receive any~~
25 ~~compensation. All members shall be entitled] serve~~

1 without compensation as such, but shall be entitled to
2 receive travel costs and per diem at standard National
3 Government rates when actually attending Board meetings
4 or engaged in the performance of duties authorized by
5 the Board. Any employee of the National Government
6 shall be granted leave with pay when actually attending
7 Board meetings or engaged in the performance of duties
8 authorized by the Board.

9 (7) General powers and duties.

10 (a) It shall be the responsibility of the Board
11 to promote the soundness, stability, growth and
12 development of the [~~National Government Employees~~]
13 MiCare Health Insurance Plan and the [~~National~~
14 ~~Government Employees~~] MiCare Health Insurance Fund. To
15 that end, the Board shall have overall responsibility
16 for administration of the Plan, PROVIDED, however, that
17 day-to-day operations of the Plan shall be the
18 responsibility of Administrator. The Board shall have
19 such other powers and duties as may be necessary to
20 carry out the purposes of this chapter.

21 (b) Responsibility for the proper day-to-day
22 operation of the Plan shall be vested in Administrator
23 who shall have power to delegate duties and
24 responsibilities to such employees of the Plan as the
25 Administrator deems feasible and desirable to carry out

1 the provisions of this chapter, and subject to the
2 Boards approval, shall have the authority to negotiate
3 and enter into contracts and other legally binding
4 agreements for the Plan.

5 (c) [~~The Board shall periodically consult with,~~
6 ~~and seek the advice of, interested members of the public~~
7 ~~in each respective State of the Federated States of~~
8 ~~Micronesia regarding the operation of the Plan and shall~~
9 ~~endeavor to ensure that such consultations are done with~~
10 ~~persons broadly representative of actual and potential~~
11 ~~participants in the Plan, including representatives of~~
12 ~~the medical profession and participating businesses]~~.

13 The MiCare Health Insurance Plan shall conduct an annual
14 claim audit to identify possible claims frauds and
15 abuses by the Health Care Providers. Claim audit
16 findings shall be reported to the Board of Directors, to
17 the Public Auditor of the Federated of Micronesia and
18 the Department of Justice of the Federated States of
19 Micronesia for appropriate review and action.

20 (d) MiCare shall accept only physicians with FSM
21 medical licenses to provide services to MiCare members
22 with in the Federated States of Micronesia. Likewise,
23 the Administrator must ascertain that physicians
24 provided medical services to referral patients are
25 licensed in relevant jurisdiction.

1 (e) MiCare Health Insurance Plan may suspend or
2 terminate service contracts with health care providers
3 cased on claim audit findings of non-compliance or other
4 instances of non-compliance;

5 (f) The MiCare Health Insurance Plan shall
6 establish a formulary with prices of all covered
7 medicine and pharmaceutical supplies and Relative Unit
8 Value (RUV) schedule to guide the on-island costs of
9 medical services covered by MiCare Health Insurance
10 Plan.

11 (g) MiCare reserves the right to refuse payment
12 on any Medical claim with clear evidence of conflict of
13 interest, including doctors providing consultations,
14 diagnose or prescriptions to themselves or their family
15 members.

16 (8) Time for Implementation.

17 (a) All nominations for all positions on the
18 Board shall be transmitted to Congress within ninety
19 (90) days of the date this act becomes law.

20 (b) The Board shall appoint an Administrator
21 within 90 days of the date all Board members have been
22 appointed by Congress. If no Administrator is appointed
23 within this time, the Board shall submit to Congress a
24 detailed account of the steps it is taking to appoint an
25 Administrator and the reasons why it has not done so.

1 (c) Immediately upon the appointment of the
2 Administrator, all employees of the [p]Plan who hold a
3 job title containing the word 'Chief' shall be given a
4 new job title and the word 'Chief' shall be deleted from
5 the job title.

6 Section 6. Section 408 of title 52 of the Code of the
7 Federated States of Micronesia, as amended by Public Law No.
8 12-77, is hereby further amended to read as follows:

9 "Section 408. Reporting.

10 Prior to the commencement of each regular May session of
11 Congress, the Board, through the Administrator, shall
12 prepare and submit to the President of the Federated
13 States of Micronesia and to the Speaker of the Congress
14 an annual report on the status of the pPlan. This
15 report shall include a statement of the amount of money
16 on deposit in the [~~Employees~~] MiCare Health Insurance
17 Fund as of the date of the annual report, the amount of
18 premiums collected and interest earned during the
19 preceding fiscal year, the amount of money disbursed for
20 claims during the preceding fiscal year, the number of
21 claims paid during the preceding fiscal year, the costs
22 of administration, and such other information as the
23 Board may deem appropriate."

24 Section 7. Section 407 of title 52 of the Code of the
25 Federated States of Micronesia, as amended by Public Law No.

1 12-77, is hereby further amended to read as follows:

2 "Section 409. Promulgation of regulations.

3 (1) The Board, with the approval of the President, or
4 his designee shall promulgate regulations, pursuant to
5 chapter 1 of title 17 of this code, governing the amount
6 of the premium for insurance under the [p]Plan, the
7 procedure for making claims under the [p]Plan, the
8 amount and type of benefits under the [p]Plan, the
9 policy limits under the [p]Plan, and such other matters
10 as may be consistent with the contents and purpose of
11 this chapter, including the implementation of those
12 provisions of this chapter pertaining to participating
13 agencies and participating businesses.

14 [~~(a) The Board shall promulgate no regulation
15 allowing a claim for benefits under the plan to be
16 denied on the grounds that the medical condition giving
17 rise to the claim existed before the person making the
18 claim began participating in the plan. Any such
19 existing regulation is hereby retroactively repealed for
20 a period of six months from the date this act becomes
21 law.]~~

22 (2) The plan may:

23 (a) provide, arrange for, pay for, or reimburse
24 the costs of medical, dental and vision treatment and
25 care, hospitalization, surgery, prescription drugs,

1 medicine, prosthetic appliances, out-patient care, and
2 other medical care benefits, in cash or the equivalent
3 in medicines and supplies;

4 (b) provide life insurance benefits;

5 (c) contract with private sector insurance
6 companies to provide benefits; [~~and~~]

7 (d) contract for other services as needed[-]; and

8 (e) establish and manage its own financial and
9 personnel management rules and regulations."

10 Section 8. Title 52 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by adding a new
12 section 411 under chapter 4, to read as follows:

13 "Section 411. Jurisdiction over Claims. The FSM
14 Supreme Court trial division shall have original
15 exclusive jurisdiction over any civil action to which
16 the Plan or the Board is a Party."

17 Section 9. This act shall become law upon approval by the
18 President of the Federated States of Micronesia or upon its
19 becoming law without such approval.

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21 Date: 5/19/14

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper

(by request)

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