



Territory of Guam
Teritorion Guam

OFFICE OF THE GOVERNOR
UPISINAN I MAGALAHI
AGANA, GUAM 96910 U.S.A.

Rec'd by PC Lujan
12/30/94
10:45 PM

RECEIVED

OFFICE OF THE SPEAKER

DATE: 12-31-94

TIME: 12 noon

RECD BY: *epm*

DEC 30 1994

Honorable Joe T. San Agustin
Speaker
22nd Guam Legislature
155 Hesler St.
Agana, Guam 96910

Hafa Adai Mr. Speaker:

I am herein, transmitting Bill 1153 (LS), which I have signed into law this date.

While I certainly support this bill, as indicated by my approval, there are technical problems with Section 5 which will require corrections.

Specifically, in Subsection (a) of §62105, the phrase, "(if located on top of the Northern Aquifer)", as iterated on line 21, page 7, should be deleted. The need for sewerage at the minimum lot size of 5,000 square feet is not a product of zoning designation or even location, but on the capacity of minimum land area to handle leaching of waste products without compromising the health of adjacent property owners. That lot area has been determined to be 5,000 square feet, based on geology and hydrology, and should not be determined by political considerations. This same comment applies to the amended §61501, as iterated on page 9, lines 4 and 5 of the bill.

I know you'll agree that the health of our communities is of utmost importance, and I appreciate your concerns as indicated by the strong standards applied in this bill.

Si Yu'os Ma'ase',

Joseph F. Ada
JOSEPH F. ADA
Governor

220929

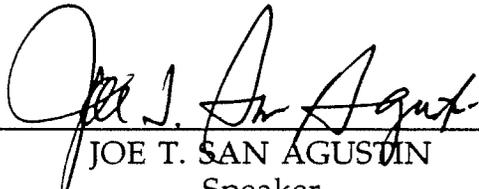


Commonwealth Now!

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

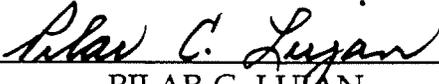
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 1153 (LS), "AN ACT TO AMEND §2913.10 OF TITLE 10, GUAM CODE ANNOTATED, TO REQUIRE PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO, BODIG, DIABETES, AND IRREVERSIBLE RENAL FAILURE TO MEET A MEANS TEST IN ORDER TO OBTAIN GOVERNMENT PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES; AND TO ADD §§19107 AND 19108 TO, AND TO AMEND §19102 OF TITLE 17, GUAM CODE ANNOTATED TO ESTABLISH THE GRADUATE NURSES CORPS; AND TO AMEND SUBSECTION (a) OF §62105 AND §61501 OF, AND TO ADD §62108.1 TO, TITLE 21, GUAM CODE ANNOTATED, ON LOT SIZES," was on the 9th day of December, 1994, duly and regularly passed.



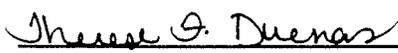
JOE T. SAN AGUSTIN
Speaker

Attested:



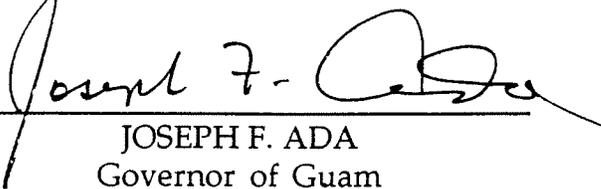
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 19th day of December, 1994, at
4:40 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: DEC 9 1994

PUBLIC LAW NO: 22-161

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 1153

As amended by the Committee on
Health, Ecology & Welfare and as
substituted on the floor

Introduced by:

At the request of the Governor,

Chairperson, Committee on Rules

H. D. Dierking

D. L. G. Shimizu

T. C. Ada

J. P. Aguon

E. P. Arriola

M. Z. Bordallo

C. T. C. Gutierrez

P. C. Lujan

T. S. Nelson

V. C. Pangelinan

D. Parkinson

E. D. Reyes

J. T. San Agustin

F. E. Santos

J. G. Bamba

A. C. Blaz

D. F. Brooks

F. P. Camacho

M. D. A. Manibusan

T. V. C. Tanaka

A. R. Unpingco

AN ACT TO AMEND §2913.10 OF TITLE 10, GUAM
CODE ANNOTATED, TO REQUIRE PERSONS
AFFLICTED WITH TUBERCULOSIS, LYTICO, BODIG,
DIABETES, AND IRREVERSIBLE RENAL FAILURE TO
MEET A MEANS TEST IN ORDER TO OBTAIN

GOVERNMENT PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES; AND TO ADD §§19107 AND 19108 TO, AND TO AMEND §19102 OF TITLE 17, GUAM CODE ANNOTATED TO ESTABLISH THE GRADUATE NURSES CORPS; AND TO AMEND SUBSECTION (a) OF §62105 AND §61501 OF, AND TO ADD §62108.1 TO, TITLE 21, GUAM CODE ANNOTATED, ON LOT SIZES.

1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

2 **Section 1. Legislative findings.** The Legislature finds and determines
3 that it is in the public interest to maximize the use of federal programs and
4 payments to fund health care services for the treatment of persons afflicted
5 with tuberculosis, lytico or bodig (Amyotrophic Lateral Sclerosis or
6 Parkinsonism Dementia), diabetes, or end stage renal disease ("ESRD"), (the
7 "Five Diseases") who are unable to pay for such treatment and who are either
8 uninsured or underinsured. The Legislature finds that the federal
9 government states that it is necessary to make changes in Guam law
10 concerning government of Guam funding of health care for the Five Diseases
11 in order to continue federal funding therefor. Further, the Legislature finds
12 that the federal government has taken the position that Medicare-certified
13 ESRD providers, physicians and practitioners on Guam should not be entitled
14 to receive Medicare program payments for ESRD services rendered because
15 such services are included in the free-care provisions of Guam law.

16 **Section 2. Legislative intent.** The Legislature hereby intends to
17 maintain federal funding for the treatment of eligible persons afflicted with
18 the Five Diseases, to maximize participation in federally-funded health care
19 programs, to ensure that those afflicted persons who have the economic
20 means, personally, or through private health insurance, to finance their
21 health care treatment for the Five Diseases do so, and to ensure that all

1 persons receive health care treatments for the Five Diseases, including those
2 who do not qualify for federally-funded or private insurance health care
3 programs who are unable to pay for such treatment, and who are either
4 uninsured or underinsured.

5 **Section 3.** §2913.10 of Title 10, Guam Code Annotated, is hereby
6 repealed and reenacted to read as follows:

7 "§2913.10. **Program requirements.** To be eligible for coverage, an
8 applicant for the Medically Indigent Program must be a resident of
9 Guam who applies for and qualifies for assistance as determined by the
10 Medically Indigent Program eligibility standards according to the
11 following three sets of criteria: Income Limitations, Resource
12 Limitations and Residence Requirements except that no Residence
13 Requirement shall be imposed for persons with tuberculosis. Eligibility
14 shall begin in the month the application is received. Coverage of
15 eligibility can be retroactive for up to three months back (90 days) **except**
16 for services requiring program prior authorization.

17 (a) **Eligibility.** An applicant must also be one who is or
18 would be legally obligated to pay for medical services rendered to
19 such person but, through indigence or other financial
20 circumstances, is unable to pay for such services and either:

21 (1) is not eligible for Medicare or Medicaid coverage under
22 Title XVIII or XIX of the Social Security Act; or

23 (2) has neither private medical insurance coverage nor the
24 financial ability to pay for medical insurance coverage or for
25 medical services as determined by the program; or

26 (3) has Medicare, Medicaid or private medical insurance
27 coverage but such coverage is inadequate to cover the cost of

1 medically required treatment and such person is otherwise
2 qualified for the program as a result of inadequate income or
3 resources.

4 (b) **Limitation.** Any supplemental coverage provided
5 pursuant to this Article is limited to those items or services for
6 which coverage is not otherwise provided by any primary insurer.
7 Supplemental coverage may include amounts due for co-
8 insurance obligations, deductibles, and other services for which a
9 specific primary coverage may not have been available at the time
10 the medical service was rendered, and is further subject to the
11 coverage and all limitations of the limitations of the Medically
12 Indigent Program.

13 (c) **Additional coverage.** The government of Guam,
14 through the Medically Indigent Program ("MIP"), shall pay for
15 health services for tuberculosis, lytico or bodig, diabetes, or end
16 stage renal disease ("ESRD") for persons who are unable, with
17 due diligence, to obtain adequate public or private health
18 insurance coverage for such care, and who lack the means or
19 financial ability to pay for their own care. The Department of
20 Public Health and Social Services ("DPHSS") shall identify the
21 persons now in the MIP free care program and ensure that those
22 who are unable, with due diligence, to obtain adequate public or
23 private health insurance coverage for such care, and who lack the
24 means or financial ability to pay for their own care receive the
25 necessary care, either through the MIP program, the Guam
26 Memorial Hospital Authority ("GMHA"), or other appropriate
27 health care program. DPHSS, in accordance with the

1 Administrative Adjudication Law, shall adopt rules and
2 regulations to establish eligibility criteria, separate and apart
3 from the existing MIP poverty guidelines, to specifically address
4 the health care needs of individuals afflicted with the five medical
5 conditions listed in this subsection.

6 (d) **Waiver of charges.** GMHA is authorized to waive its
7 charges for health services for tuberculosis, lytico or bodig,
8 diabetes, or ESRD for persons who are unable, with due
9 diligence, to obtain adequate public or private health insurance
10 coverage for such care, and who lack the means or financial
11 ability to pay for their own care GMHA, in accordance with the
12 Administrative Adjudication Law, shall adopt regulations
13 necessary to implement and administer the provisions of the
14 subsection."

15 **Section 4. (a) Legislative findings.** The Legislature finds that to
16 enhance the quality of the healthcare delivery service on Guam, nursing
17 professionals require advanced graduate education that is not now provided
18 at the University of Guam. Further, that the advanced graduate nurses
19 summer training program established by Public Law 201-37 has been so
20 successful that the number of participants was increased in Public Law 21-40.
21 Finally, that the advanced graduate nurses summer training program proved
22 the need for advanced training for all Guam nurses, and that the University
23 of Guam School of Nursing may provide such training by the establishment of
24 a graduate program.

25 (b) **Addition of §19170 re Graduate Nursing Corps.** §19170 is
26 hereby added to Title 17, Guam Code Annotated, to read:

1 "§19170 Graduate Nurses Corps established. The
2 University of Guam shall develop and establish a Graduate
3 Nurses Corps that would meet academic and accreditation
4 standards for a Masters in Nursing Degree. The Graduate
5 Nurses Corps shall be established after the School of Nursing at
6 the University of Guam has achieved accreditation from the
7 National League for Nursing."

8 (c) **Addition of §19108 re annual report and budget**
9 **request.** §19180 is hereby added to Title 17, Guam Code Annotated, to
10 read:

11 §19180. **Annual report and budget request.** The University
12 shall submit to the Governor and the Speaker of the Legislature
13 an annual report and budgetary request to fund the programs
14 established in this chapter."

15 (d) **Amendment increasing stipends for nursing students.** §19102
16 of Title 17, Guam Code Annotated is amended to read:

17 "§19102. **Stipends.** There are hereby established the
18 following stipends for nursing students at the University of
19 Guam:

20 (1) A monthly allowance shall be paid to a nursing student
21 recipient at the following rates: Freshmen, Two Hundred Dollars
22 (\$200) per month; Sophomore, Three Hundred Dollars (\$300) per
23 month; Junior, Four Hundred Dollars (\$400) per month; Senior
24 and graduate standing, Five Hundred Dollars (\$500) per month.

25 (2) As a condition for continuing full entitlement to the
26 benefits provided in this chapter, recipients must maintain a full-
27 time enrollment as defined by regulation of the University of

1 Guam, and be of good academic standing. No recipient may
2 receive benefits beyond the number of calendar years normally
3 required to complete such nursing student's program.

4 (3) Registration, tuition, and other related fees normally
5 assessed by the University of Guam and an allowance in the
6 amount of Two Hundred Fifty Dollars (\$250) shall be allowed
7 each recipient for each regular semester, and One Hundred
8 Dollars (\$100) per summer session in which a nursing student is
9 enrolled to cover costs of textbooks and supplies."

10 **Section 5.** Subsection (a) of §62105, Title 21, Guam Code Annotated is
11 amended to read:

12 "(a) Agricultural Subdivision shall mean a subdivision having
13 no lots, parcels or sites smaller than ten thousand (10,000) square feet
14 with sewer connection (if located on top of the Northern Aquifer) and
15 in which all lots, parcels or sites are used principally for agriculture,
16 single family resident sites or as an agriculture-homesite
17 combination; except that the term Agricultural Subdivision shall
18 include a subdivision resulting from distribution by the court
19 pursuant to §62104(a) or (b) of this Chapter with no lots, parcels sites
20 smaller than five thousand (5,000) square feet with sewer connection
21 (if located on top of the Northern Aquifer) and in which all lots,
22 parcels or sites are used principally for agriculture, single family sits
23 or as an agricultural homestead combination."

24 (b) A new §62108.1 is added to Chapter 62, Title 21, Guam Code
25 Annotated to read:

26 §62108.1. **Agricultural subdivision requirements.** (a) Any
27 person or persons subdividing agriculturally-zoned land into six (6)

1 or more lots, parcels or sites with the intention of selling three (3) or
2 more of the subdivided lots shall be required to make improvements
3 consistent with §62108 and Article 5 of Title 21 of the Guam Code
4 Annotated.

5 (b) All agricultural subdivisions with lots, parcels or sites less
6 than twenty thousand (20,000) square feet must meet the requirements
7 set forth in §12214.2(c), Chapter B, Title 13, of the Administrative Rules
8 and Regulations of the government of Guam before final approval on
9 adequate lot sizes can be given.

10 (c) §61501 of Title 21 of the Guam Code Annotated is amended to read:

11 §61501. **Minimum yards and lot areas established.** No
12 building or structure shall be erected or maintained, nor shall any
13 existing building or structure be altered, enlarged, moved or
14 maintained, on any lot, unless a front yard, a rear yard and two (2)
15 side yards are provided and maintained on such a lot. The depth of
16 such front and rear yards and the width of such side yards shall not
17 be less than the depth and width specified in the following Yards and
18 Lot Area table. Further, no lot width or lot area, nor any lot area per
19 dwelling shall be less than that specified in said table. A commercial
20 building to occupy the whole width of a lot must be of four-hour fire
21 resistive construction. If party walls are to be erected, the written
22 consent of the owners of adjacent lots must be obtained as a
23 prerequisite for the issuance of a building permit to start
24 construction. If the building to be erected is not of fireproof
25 construction, the side yards of eight (8) feet must be provided. In the
26 rural (A) Zone, all structures shall have a front yard of twenty-five
27 (25) feet, a rear yard of fifteen (15) feet and side yards of eight (8)

1 feet. The width of each lot shall be one hundred (100) feet in an area
2 of not less than ten thousand square feet. The lot area per dwelling
3 unit in the Rural Zone (A) shall not be less than five thousand (5,000)
4 square feet with sewer connection (if located on top of the Northern
5 Aquifer)."

6 **Section 6. Severability.** If any provision, clause or phrase of this Act,
7 or if the application thereof to any person, legal entity or circumstance, is held
8 invalid, such invalidity shall not affect the other provisions or applications of
9 this Act which may be given effect without the invalid provision or
10 application, and all the provisions of this Act are declared to be separable.

11 **Section 7. Effective date.** The provisions of this Act shall take effect
12 thirty (30) days after it becomes law.

6
12/9/24

Bill No. 1153

Resolution No. _____

(Date)

Question: _____

Senators	Aye	No	Declined to Vote	Required to vote	Excused from voting	ABSENT/OUT DURING ROLL CALL
Ada, Thomas C.	✓					
AGUON, John P.	✓					
ARRIOLA, Elizabeth P.	✓					
BAMBA, George J.	✓					
BLAZ, Anthony C.	✓					
BORDALLO, Madeleine Z.						✓
BROOKS, Doris F.	✓					
CAMACHO, Felix P.	✓					
DIERKING, Hermina D.	✓					
GUTIERREZ, Carl T. C.	✓					
LUJAN, Pilar C.	✓					
MANIBUSAN, M. D. A.	✓					
NELSON, Ted S.	✓					
PANGELINAN, Vicente C.	✓					
PARKINSON, Don	✓					
REYES, Edward D.	✓					
SAN AGUSTIN, Joe T.	✓					
SANTOS, Francis E.	✓					
SHIMIZU, David L. G.	✓					
TANAKA, Thomas V. C.	✓					
UNPINGCO, Antonio R.	✓					

TOTAL

20				1
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October 21, 1994

The Honorable
Joe T. San Agustin
Speaker
22nd Guam Legislature

via: Committee on Rules

Dear Speaker San Agustin:

The Committee on Health, Ecology & Welfare, to which was referred Bill No. 1153: AN ACT TO AMEND SECTION 2913.10 OF TITLE 10 OF GUAM CODE ANNOTATED TO REQUIRE PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO OR BODIG, DIABETES, AND IRREVERSIBLE RENAL FAILURE TO MEET A MEANS TEST IN ORDER TO OBTAIN GOVERNMENT OF GUAM PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES. herein reports back with the recommendation **TO DO PASS.**

 6 To Pass
 0 Not To Pass
 0 To The Inactive File
 3 Abstained
 0 Off-Island
 1 Report Out Only

Sincerely,



Dr. David L.G. Shimizu

Enclosures



TWENTY SECOND
GUAM LEGISLATURE

Dr. DAVID L.G. SHIMIZU
Senator

CHAIRMAN:
Committee on
Health,
Ecology
and
Welfare

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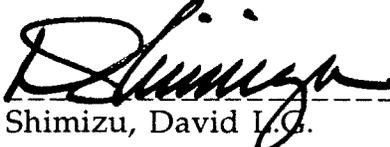
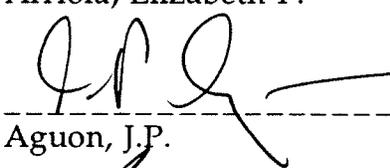
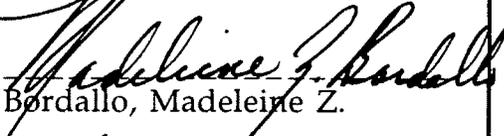
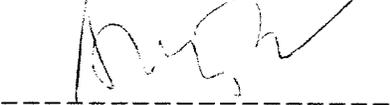
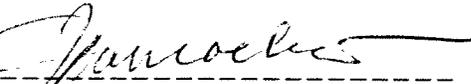
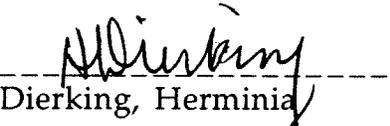
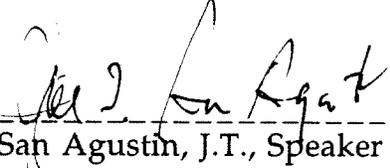


VOTE SHEET
Committee on Health, Ecology & Welfare

BILL NO. 1153 At the request of the Governor. AN ACT TO AMEND SECTION 2913.10 OF TITLE 10 OF GUAM CODE ANNOTATED TO REQUIRE PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO, BODIG, DIABETES, AND IRREVERSIBLE RENAL FAILURE TO MEET A MEANS TEST IN ORDER TO OBTAIN GOVERNMENT OF GUAM PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES.

NOT

SENATOR	TO PASS	TO PASS	ABSTAIN	FILE
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 Shimizu, David L.G.	✓			
 Arriola, Elizabeth P.	✓			
 Aguon, J.P.	✓			
 Bordallo, Madeleine Z.	✓			
 Brooks, Doris F.	✓		DB report out only	
 Blaz, Anthony	✓			
 Camacho, Felix P.	✓			
 Dierking, Herminia	✓		✓	
 Manibusan, Marilyn D.A.			Mdm ✓	
 San Agustin, J.T., Speaker	M		✓ M	

COMMITTEE REPORT
Health Ecology & Welfare Committee
on Bill No. 1153 at the request of the Governor

AN ACT TO AMEND SECTION 2913.10 OF TITLE 10 OF GUAM CODE ANNOTATED TO REQUIRE PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO OR BODIG, DIABETES, AND IRREVERSIBLE RENAL FAILURE TO MEET A MEANS TEST IN ORDER TO OBTAIN GOVERNMENT OF GUAM PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES.

PUBLIC HEARING

A Public Hearing was held by the Health Ecology & Welfare Committee on Friday, October 14, 1994 at 9:00 am. in the public hearing room of the Guam Legislature Temporary Building. Present at the hearing were Chairman Dr. David LG Shimizu, vice chairperson Senator Elizabeth P. Arriola, and Senators Francis Santos, Ted Nelson, Tom Ada, Ben Pangelinan, Herminia Dierking and Vice Speaker John Aguon.

BILL 1153

TESTIMONY FROM PRIVATE SECTOR

1. **Ruby M. Cruz**, Administrator of Pacific Dialysis Corporation, presented oral testimony on behalf of the clinic. She introduced Dr. Ruben Basilio, who is the medical director for PDC and GMH hemodialysis units, Mrs. Teresita Rosario and Mr. Gilermo Puno, who are the patient representatives of Pacific Dialysis Corporation. Ms. Cruz gave a brief overview of Pacific Dialysis stating that the clinic is a free standing dialysis unit that specializes in the training of patients so that they are able administer dialysis treatment on themselves in their own home. She reported that the clinic currently has a total of 44 patients, 17 of whom are primarily covered by are Medicare and 27 of whom are primarily covered through MIP. Ms. Ruby Cruz testified in favor of Bill 1153, stating that this legislation will ease the financial burden on Government of Guam by continuing to maximize the assistance of Medicare funds in treating ESRD and other patients affected by this legislation. Included in her testimony was her statement that the medical cost per year of an ESRD patient is \$36 thousand dollars which includes physician and dialysis treatment costs only, not including expenses such as the costs for hospitalization. She added that she is in favor of the bill

because as a resident of Guam paying FICA, she is aware of the required payments one would have to make to qualify for benefits. and she, as well as others, would be very displeased to find out that after contributing to Social Security and upon turning 65 years old, she would not be given certain medical services through Medicare because of conflicts between local statutes and that of federal regulations. In closing her testimony, Ms. Cruz made reference to the fact that there is currently a high incidence of kidney failure reported on Guam which includes a projection of twenty (20) to forty (40) new cases being reported each year. Because of this it was Ms. Cruz's strong recommendation to the committee that with this legislation be passed. She added that we could look into introducing preventive education programs and looking at other states' renal programs that would be custom fit to our islands needs and to the people of Guam.

2. **Mrs. Teresita Rosario** testified on behalf of her husband who has ESRD. Mrs. Rosario stated that she is appearing before the Committee because of the problems Guam is faced with regards to Medicare and MIP coverage if we don't revise the law. According to Mrs. Rosario, she comes before the committee to plea for the legislature's help in passing the law because many patients do not have the capital or money on their own to pay for their treatment.

3. **Dr. Ruben Basilio**, medical director of Pacific Dialysis Corporation and GMH hemodialysis unit, testified to contribute what he could to enlighten the Committee as far as the problem is concerned. He had no reservation about the bill and would like to see the amendment passed. He said that the intent of the original law is with moral and compassionate intent aside from being one of the best the people can have thanks to the late Senator Santos and other Senators who have supported the passage of the current law because it provides these services at no cost to the beneficiary and without a means test, and said that he was unaware of the conflict of the local law with Medicare regulations. However, the bottom line, he said, was that medical care must continue on Guam not only in payments but more importantly because of the standards of care set forth by the program. He stressed that the amending legislation will be a cost saving measure for the government by diverting the costs of treatment to other avenues. Dr. Basilio

stated that the impact of the loss of Medicare financial support for the patients would be catastrophic and that the patients who are now entitle to the Medicare program will have to look for other funding resources and if they would be turned away from MIP, there would be no other place to direct these patients but six feet under the ground without any financial assistance. In closing his testimony, Dr. Basilio reiterated that he is all in support of the proposed legislation and that we just have to pass the bill for the sake of Guam's people.

4. **Mr. Gilermo Puno** is a retiree who expressed his frustration about the potential curtailment of his Medicare benefits. He stated that he could not understand during the time of his employment the federal government was deducting for Social Security to be eligible for Medicare later on. Mr. Puno also stated that as a patient he cannot qualify for any medical insurance due to the fact that he no longer is working. Mr. Puno or this reason he is in favor the bill. He suggested to stratify recipients by income through a means test. Also suggested that Congressman Underwood lobby to remove the federal sanction. He said that if he did not get dialysis treatment, the longest he would last would be one week.

5. **Mr. Tan Sana**, a patient of Pacific Dialysis, expressed his fears about the program's loss of funding. He stated that because of the service and training provided by PDC he has been able to maintain his health and is very thankful for that. He also made reference to finding the right language to be used in the amended legislation so that the patients will continue to use the Medicare assistance. Mr. Sana expressed extreme anxiety about not being able to have the alternative treatment he now receives in his dialysis if Pacific Dialysis Corporation (PDC) ceases operation due to the program's loss of funding.

6. **Mr. Ramon Taitano**, a retired federal employee, diabetic kidney disease patient testified that he is one of several patients who expressed concern about possible cessation of PDC services if the bill is not passed. Based on the frightening stories he has heard from other patients about the pain and suffering experienced by people undergoing hemodialysis, Mr. Taitano expressed fears in undergoing hemodialysis if PDC services is no longer available. A request was made by the Chairman for Dr. Basilio to explain the

different types of treatment for renal failure. Dr. Basilio explained the difference between the two treatments. While hemodialysis involves placing large needles into the patient's arm for a blood cycling process which takes hours, CAPD only involves a patient attaching a tube to a semi-permanent catheter. He explained that choice of treatment is based on a patient's medical profile first, then personal choice second. Generally, CAPD is better for elderly patients given their medical condition associated with aging, he said.

SUMMARY OF QUESTIONS AND ANSWERS FROM PRIVATE SECTOR

Asked why a patient would go to Pacific Dialysis over GMH, Ms. Cruz said that the decision is a personal and medical choice; but access is not denied even if a patient is unable to pay.

On the question of whether there is a threshold for a means test to be able to qualify for Medicare, Ms. Cruz responded that for Medicare recipients, there is none. Employee group health plan members have an 18-month waiting period before Medicare kicks in and becomes the primary carrier; but if the health plan does not carry coverage for that certain disease beyond 6 months, then Medicare comes in.

Asked if the ability to purchase insurance be considered part of a means test, Ms. Cruz stated that yes, in some states it is, but again it really depends on the renal programs that the states have. However she stated that a lot of the states are pulling out of the renal programs because they are very expensive and are looking into revamping the entire system.

Dr Basilio expressed disbelief that Medicare would impose penalties because the service is not a benefit but an entitlement. He said, "I can see it for Medicaid but not Medicare. Unfortunately it is true."

He suggested that HMOs look for a certain level of income wherein those who are above the eligible level that would satisfy the means test may be able to get a third party coverage. On implementation of the means test, Dr. Basilio stated that there is a need to compile data for the feds. Those who do not qualify will be picked up 100% by MIP anyway. In any event, the law still has to be amended.

On the financial impact of a means test, Ms. Cruz suggested that we put together a means test that is not inclusive of patients' home and assets, but only income.

Asked how many of PDC patients have private insurance, Ms. Cruz stated there were 10 out of the 44. However, only one patient has been able to bill the private insurance. The \$36,000 figure given earlier (cost per patient per year) is not inclusive of all the drugs. According to her, the practice in other states is that the main drug is dispensed through the dialysis unit and billed to Medicare; other supplements are paid for by the patient.

On the question of why the means test is not made part of the legislation, Senator Shimizu stated that only through a true representation of the consumers and providers in the development of the means test can it be reflective of our community needs on Guam. This will ensure that the means test will not be exclusionary. This process is best addressed by developing the means test through Administrative Adjudication.

TESTIMONY FROM GOVERNMENT REPRESENTATIVES

1. **Ms. Madeleine Austin**, Governor's Legal Counsel:

Briefly, she stated that the bottom line is that we have a free care program and that HCFA was not aware that we have had this for many years. Latest word from HCFA: the regional office has asked its central office to stop the process to halt the Medicare reimbursements to Guam. Passage of the bill is sufficient assurance for HCFA; we have time after passage of law to develop a means test.

2. **Karen Cruz**, Chief Public Health Officer of Department of Public Health & Social Services:

She presented written testimony on behalf of the department. She is in favor of Bill 1153, saying that it will allow DPHSS to maximize the use of federal program payments to fund health care services. She informed the Committee that if the MIP statute is not amended to take out free care provision, Medicare will stop reimbursing for free care provided. Government of Guam will have to appropriate approximately an additional \$1 million annually to the MIP budget to

cover medical costs for ESRD patients. The most expensive of the five free care disease is ESRD. There are 114 recipients of ESRD. GovGuam will also have to anticipate a retropayment of approximately \$8 million to the federal government. She added that with the amendment to the law, the program will need the services of an actuary to design a means test for the program to base coverage on ability to pay and a 90-day period thereafter to develop regulations in support of the proposed changes.

3. Mr. PeterJohn Camacho, Administrator of Guam Memorial Hospital:

He testified that GMH supports the bill saying that we need to maximize resources for these diseases and that due to the chronic nature of this disease, expense will continue to increase. His concern on behalf of GMH is that when service is provided that mechanism is needed for reimbursement to GMH. He requested the Committee to consider deleting two words, "and directs" in subsection (d) §2913.10. According to him, this provision as written will mean that GMH would be losing potential revenue from those eligible patients.

4. Mr. John Salas of Department of Administration:

Representing DOA, he is also the principal negotiator in group health insurance for Government of Guam. He is in support of the bill and states that the GovGuam contract already has a mechanism in place to make these adjustments at if needed.

5. Mr. Jesse Catahay, DPHSS , Administrator for Welfare Division, DPHSS

His only concern is that no matter what option the government takes in addressing this problem, it would mean additional funding requirements for the program.

6. Mrs. Dorie Solidum, DPHSS Health Care Financing Administrator

She offered to answer questions.

SUMMARY OF QUESTIONS AND ANSWERS FROM GOVERNMENT REPRESENTATIVES:

Chairman Shimizu tasked the government representatives to take the committee through a section by section analysis of the bill.

Ms. Austin explained that Section 3 repeals current law and reenacts a new provision. The key, she stated, is that by federal statute, Medicare will not pay any medical care given free by a state. This is the reason why a subsection (a) is added on supplemental coverage and the deletion of free care. Subsection (c) will cover the cost of medical care for those identified by DPHSS who for one reason or another are unable or lack the means or financial ability to pay for their own care.

One other point she mentioned that as per her telephone conversation prior to the public hearing, HCFA will not make a ruling on Congressman Underwood's (letter of May 26, 1994 to Mr. Bruce Vladeck) request for extension until after session of the Guam Legislature.

Asked if the bill satisfied all the departments, the representatives replied, Yes. Mr. Salas added that DOA's responsibility is to its 17,000 employees and DOA does not dictate policy to the insurers. According to him, based on data presented, with 16 GovGuam employees with ESRD, the impact of this on the \$45million program, perhaps even adding two more patients is less than 2% in the aggregate. However, small providers will experience greater impact. But a renegotiation ability is already built into the government contract anyway.

He stated that all health insurance companies have excluded these five diseases. If bill passes, then it is the responsibility of the plans to present to government the impact of including it as coverage; but he feels that it is not significant enough to warrant rate increases. Government subsidy for past two years has been level at \$16.1 million based on \$45 million program. If any rate adjustment is made, DOA will pass it on to subscriber. Otherwise DOA will take a wait and see attitude based on plans' presentation. Plan cannot renegotiate unless there is more than 5% increase. Other plans cannot renegotiate unless the impact is significant.

Concern was expressed that none of the plans have any exposure on these diseases because they do not track this data; and they will need to know incidences and cost centers. Senator Pangelinan estimated it will cost about \$40.00 per member.

Mr. Salas expressed concern about the implementation of the means test. According to him, if data are accurate, they can develop scenarios almost immediately, instead of the 90 days, subject to the accuracy of data presented.

On the question of how much has been paid out of local funds, Mrs. Solidum informed that for MIP in FY '93 \$10.93million was expended only out of local funds. She added that if bill 1153 is enacted, a means test acceptable to HCFA would have to be subject to negotiation. The DPHSS figures represent what they have paid out. The true cost is approximately \$3million per annum. If this bill is enacted, some of the costs now borne by MIP may be shifted to Medicare and even Medicaid. Mr. Salas added that if we are concerned about shifting this cost to the employees Senator Pangelinan's estimated impact is \$40 per year, not per month.

OTHER TESTIMONY

It is noted that the testimony of **Robert G. Bath**, Pacific Area Representative of the U.S. Department of Health and Human Services Health Care Financing Administration Region IX, sent via facsimile transmission, is the only official notification received by the Committee regarding the means test problem. In his letter, Mr. Bath stated that he is in favor of Bill 1153, saying that passage of the legislation is essential for certain health care providers to continue to receive federal Medicare program payments for services provided to persons afflicted with the specific diseases.

COMMITTEE FINDINGS

The Committee finds that it is the opinion of the Health Care Financing Administration that passage of new Guam legislation is essential for certain Guam health care providers, most notably the Guam Memorial Hospital Authority, to continue to receive Federal Medicare program payments for services provided to persons afflicted with the specifically mentioned diseases. It has also been determined by HCFA that if it becomes necessary to discontinue Medicare payments the full burden of payments will fall to the Government of Guam. When and if Medicare reimbursement ceases, the Government of Guam will be responsible for additional medical assistance payment through the Medically Indigent Program of approximately

one million dollars per year. Additionally, another \$8 million in previous payments are potentially subject to Medicare overpayment recovery.

The Committee further finds, that Guam health care providers can continue to receive Medicare payments for the specifically named services only if the Territory's free-care statute is amended to include a means test so that those patients who have the financial assistance to pay for their own medical care are required to do so.

According to the Governor's legal counsel and communications received from Mr. Robert G. Bath of the Department of Health and Human Services, if the Government of Guam does not act to correct the conflicting laws in the Guam statute with the applicable federal statute then the Department of Health and Human Services will immediately proceed to take the necessary action to terminate Medicare coverage to Guam patients receiving medical treatment for End Stage Renal Disease. In addition, the federal government will proceed to seek reimbursement of approximately \$8,000,000.00 for past Medicare payments because of the conflict in the Guam statute with the applicable federal statute.

The Bureau of Budget and Management Research submitted a Fiscal Note stating that although the bill entails fiscal impact, such information cannot be determined at this time. BBMR listed a total FY appropriation to date for DPHSS as \$72,500,000.

COMMITTEE RECOMMENDATION:

While the anticipated actions to be taken by the federal government are reprehensible, the bottom line is that we must continue the urgent health care services funded by Medicare to the people of Guam. We have been continuously advised by the executive branch that we are in a critical cash deficit. We should not put at risk the continued health care of our local people who are eligible for Medicare. It makes perfect common sense for us to correct the conflicting Guam statute in order for the people of Guam to continue its entitlement to Medicare. This would allow our government to use the local funds that otherwise would have gone to pay for these services for other related health care needs.

Therefore, on Bill No. 1153 at the request of the Governor, AN ACT TO AMEND SECTION 2913.10 OF TITLE 10 OF GUAM CODE ANNOTATED TO REQUIRE PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO OR BODIG, DIABETES, AND IRREVERSIBLE RENAL FAILURE TO MEET A MEANS TEST IN ORDER TO OBTAIN GOVERNMENT OF GUAM PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES, the Health, Ecology & Welfare Committee hereby recommends that Amended Bill 1153 be reported out **TO DO PASS**.

TWENTY-SECOND GUAM LEGISLATURE
(SECOND) Regular Session 1994

Bill No. 1153
as Amended by the Health, Ecology & Welfare Committee

Introduced by: CHAIRPERSON, COMMITTEE ON RULES *H. Hinkley*
At the request of the Governor

AN ACT TO AMEND SECTION 2913.10 OF TITLE 10 OF GUAM CODE ANNOTATED TO REQUIRE PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO, BODIG, DIABETES, AND IRREVERSIBLE RENAL FAILURE TO MEET A MEANS TEST IN ORDER TO OBTAIN GOVERNMENT OF GUAM PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1 Section 1. Legislative Findings. The Legislature hereby finds and determines
2 that it is in the public interest to maximize the use of federal programs and
3 payments to fund health care services for the treatment of persons afflicted with
4 tuberculosis, lytico or bodig (Amyotrophic Lateral Sclerosis or Parkinsonism
5 Dementia), diabetes, or end stage renal disease (ESRD) who are unable to pay for
6 such treatment and who are either uninsured or underinsured. The Legislature
7 finds that it is the position of the federal government that it is necessary to make
8 changes in Guam law concerning Government of Guam funding of health care for
9 these five diseases in order to maintain federal funding therefor. Further, the
10 Legislature finds that the federal government has taken the position that Medicare-
11 certified ESRD providers, physicians and practitioners on Guam should not be
12 entitled to receive Medicare program payments for ESRD services rendered because
13 such services are included in the free-care provisions of Guam law.

14 Section 2. Legislative Intent. The Legislature hereby intends: to maintain
15 federal funding for the treatment of eligible persons afflicted with tuberculosis,
16 lytico or bodig (Amyotrophic Lateral Sclerosis or Parkinsonism Dementia), diabetes
17 or end stage renal disease (ESRD); to maximize participation in federally funded
18 health care programs; to ensure that those afflicted persons who have the economic
19 means, personally, or through private health insurance, to finance their health care
20 treatment for these five diseases, do so; and to ensure that all persons receive health
21 care treatments for these five diseases, including those who do not qualify for
22 federally funded or private insurance health care programs who are unable to pay
23 for such treatment, and who are either uninsured or underinsured.

1
2 Section 3. §2913.10 of Title 10 Guam code Annotated, is hereby repealed and
3 reenacted to read as follows:

4 "§2913.10. Program Requirements. To be eligible for coverage, an
5 applicant for the Medically Indigent Program must be a resident of Guam
6 who applies for and qualifies for assistance as determined by the Medically
7 Indigent Program eligibility standards according to the following three sets of
8 criteria: Income Limitations, Resource Limitations and Residence
9 Requirements except that no Residence Requirement shall be imposed for
10 persons with tuberculosis. Eligibility shall begin in the month the application
11 is received. Coverage of eligibility can be retroactive for up to three months
12 back (90 days) except for services requiring program prior authorization .

13 (a) Eligibility. An applicant must also be one who is or would be legally
14 obligated to pay for medical services rendered to such person but, through
15 indigence or other financial circumstances, is unable to pay for such services
16 and either:

17 (a) (1) is not eligible for Medicare or Medicaid coverage under Title
18 XVIII or XIX of the Social Security Act; or

19 (b) (2) has neither private medical insurance coverage nor the financial
20 ability to pay for medical insurance coverage or for medical services as
21 determined by the program; or

22 (c) (3) has Medicare, Medicaid or private medical insurance coverage
23 but such coverage is inadequate to cover the cost of medically required
24 treatment and ~~who~~ such person is otherwise qualified for the program as a
25 result of inadequate income or resources.

26 (b) Limitation. Any supplemental coverage provided pursuant to this
27 Article is limited to those items or services for which coverage is not
28 otherwise provided by any primary insurer. Supplemental coverage may
29 include amounts due for co-insurance obligations, deductibles, and other
30 services for which a specific primary coverage may not have been available at
31 the time the medical service was rendered, and is further subject to the
32 coverage and all limitations of the Medically Indigent Program. Coverage and
33 limitations.

34 ~~The free hospitalization and medical care of persons afflicted with~~
35 ~~tuberculosis, or lytico or bodig (Amyotrophic Lateral Sclerosis or~~
36 ~~Parkinsonism Dementia), and insulin injections for diabetes patients, and~~

1 irreversible renal failure shall continue under the Medically Indigent
2 Program without regards to income and resources. Residency requirement is
3 waived for persons with tuberculosis.

4 (c) Additional Coverage. The Government of Guam, through the
5 Medically Indigent Program, (MIP) shall pay for health services for
6 tuberculosis, lytico or bodig, diabetes, or ESRD for persons who are unable,
7 with due diligence, to obtain adequate public or private health insurance
8 coverage for such care, and who lack the means or financial ability to pay for
9 their own care. DPHSS shall identify the persons now in the MIP free care
10 program and ensure that those who are unable, with due diligence, to obtain
11 adequate public or private health insurance coverage for such care, and who
12 lack the means or financial ability to pay for their own care, receive the
13 necessary care, either through the MIP program, GMHA, or other appropriate
14 health care program.

15 (d) Waiver of Charges. The Guam Memorial Hospital Authority
16 (GMHA) is authorized [and directed] to waive its charges for health services
17 for tuberculosis, lytico or bodig, diabetes, or ESRD for persons who are unable,
18 with due diligence, to obtain adequate public or private health insurance
19 coverage for such care, and who lack the means or financial ability to pay for
20 their own care, GMHA, in accordance with the Administrative Adjudication
21 Law, shall adopt regulations necessary to implement and administer the
22 provisions of this section.

23 Section 4. Severability. If any provision, clause or phrase of this Chapter, or
24 the application thereof to any person, legal entity or circumstance is held invalid,
25 such invalidity shall not affect other provisions or applications of this Chapter
26 which may be given effect without the invalid provision or application, and all
27 provisions of this Chapter are therefore declared to be separable.

28 Section 5. Effective Date. The provisions in this amended Section 2913.10 are
29 effective thirty days after this Act becomes law.
30



Frank MB

Senator **HERMINIA D. DIERKING**
22nd GUAM LEGISLATURE

September 28, 1994

MEMORANDUM

Committees:

CHAIRPERSON:

Rules

VICE CHAIRPERSON:

Ways & Means

MEMBER:

Economic-
Agricultural
Development,
and Insurance

Education

Electrical
Power and
Consumer
Protection

Federal and
Foreign Affairs

General
Governmental
Operations and
Micronesian Affairs

Health,
Ecology and
Welfare

Judiciary
and
Criminal Justice

Tourism and
Transportation

Youth, Senior
Citizens and
Cultural Affairs

TO: Chairperson, Committee on Health, Ecology and Welfare

FROM: Chairperson, Committee on Rules

SUBJECT: Referral - Bill No. 1153

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.

H. Dierking

HERMINIA D. DIERKING

Attachment

Committee On:
HEALTH, ECOLOGY, & WELFARE
Received By: [Signature]
Date: 10/7 Time: 11:00A

TWENTY-SECOND GUAM LEGISLATURE
(SECOND) Regular Session 1994

94 SEP 28 PM 1:35

Bill No. 1153

Introduced by:

CHAIRPERSON, COMMITTEE ON RULE

McDermine

At the request of the Governor

AN ACT TO AMEND SECTION 2913.10 OF TITLE 10
OF GUAM CODE ANNOTATED TO REQUIRE
PERSONS AFFLICTED WITH TUBERCULOSIS,
LYTICO, BODIG, DIABETES, AND IRREVERSIBLE
RENAL FAILURE TO MEET A MEANS TEST IN
ORDER TO OBTAIN GOVERNMENT OF GUAM
PAYMENTS FOR HOSPITALIZATION AND
MEDICAL SERVICES FOR SUCH DISEASES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Legislative Findings. The Legislature hereby finds and
3 determines that it is in the public interest to maximize the use of federal programs
4 and payments to fund health care services for the treatment of persons afflicted
5 with tuberculosis, lytico, bodig (Amyotrophic Lateral Sclerosis or Parkinsonism
6 Dementia), diabetes, or end stage renal disease (ESRD) who are unable to pay
7 for such treatment and who are either uninsured or underinsured. The Legislature
8 finds that it is the position of the federal government that it is necessary to make
9 changes in Guam law concerning Government of Guam funding of health care for
10 these five diseases in order to maintain federal funding therefor. Further, the
11 Legislature finds that the federal government has taken the position that Medicare-
12 certified ESRD providers, physicians and practitioners on Guam should not be
13 entitled to receive Medicare program payments for ESRD services rendered
14 because such services are included in the free-care provisions of Guam law.

15 Section 2. Legislative Intent. The Legislature hereby intends: to maintain
16 federal funding for the treatment of eligible persons afflicted with tuberculosis,
17 lytico, bodig (Amyotrophic Lateral Sclerosis or Parkinsonism Dementia), diabetes
18 or end stage renal disease (ESRD); to maximize participation in federally funded
19 health care programs; to ensure that those afflicted persons who have the
20 economic means, personally, or through private health insurance, to finance their
21 health care treatment for these five diseases, do so; and to ensure that all persons
22 receive health care treatments for these five diseases, including those who do not

1 qualify for federally funded or private insurance health care programs, who are
2 unable to pay for such treatment, and who are either uninsured or underinsured.
3

4 Section 3. §2913.10 of Title 10 Guam code Annotated, is hereby repealed
5 and reenacted to read as follows:

6 *§2913.10. Program Requirements. To be eligible for coverage, an
7 applicant for the Medically Indigent Program must be a resident of Guam
8 who applies for and qualifies for assistance as determined by the Medically
9 Indigent Program eligibility standards according to the following three sets
10 of criteria: Income Limitations, Resource Limitations and Residence
11 Requirement except that no Residence Requirement shall be imposed for
12 persons with tuberculosis. Eligibility shall begin in the month the
13 application is received. Coverage of eligibility can be retroactive to three
14 months back (90 days) except for services requiring program prior
15 authorization.

16 (a) Eligibility. An applicant must also be one who is or would be
17 legally obligated to pay for medical services rendered to such person but,
18 through indigence or other financial circumstances, is unable to pay for
19 such services and either:

20 (a) (1) is not eligible for Medicare or Medicaid coverage under
21 Title XVIII or XIX of the Social Security Act; or

22 (b) (2) has neither private medical insurance coverage nor the
23 financial ability to pay for medical insurance coverage or for medical
24 services as determined by the program; or

25 (c) (3) has Medicare, Medicaid or private medical insurance
26 coverage but such coverage is inadequate to cover the cost of medically
27 required treatment and who such person is otherwise qualified for the
28 program as a result of inadequate income or resources.

29 (b) Limitation. Any supplemental coverage provided pursuant to this
30 Article is limited to those items or services for which coverage is not
31 otherwise provided by any primary insurer. Supplemental coverage may
32 include amounts due for co-insurance obligations, deductibles, and other
33 services for which a specific primary coverage may not have been available
34 at the time the medical service was rendered, and is further subject to the
35 coverage and all limitations of the Medically Indigent Program. Coverage
36 and limitations.

1 ~~The free hospitalization and medical care of persons afflicted with~~
2 ~~tuberculosis, or lytico or bodig (Amstrophic Lateral Seleresis or~~
3 ~~Parkinsonism Dementia), and insulin injections for diabetes patients, and~~
4 ~~irreversible renal failure shall continue under the Medically Indigent~~
5 ~~Program without regards to income and resources. Residency requirement~~
6 ~~is waived for persons with tuberculosis.~~

7 (c) Additional Coverage. The Government of Guam, through
8 the Medically Indigent Program (MIP) shall pay for health services for
9 tuberculosis, lytico, bodig, diabetes, or ESRD for persons who are
10 unable, with due diligence, to obtain adequate public or private
11 health insurance coverage for such care, and who lack the means or
12 financial ability to pay for their own care. DPHSS shall identify the
13 persons now in the MIP free care program and ensure that those
14 who are unable, with due diligence, to obtain adequate public or
15 private health insurance coverage for such care, and who lack the
16 means or financial ability to pay for their own care, receive the
17 necessary care, either through the MIP program, GMHA, or other
18 appropriate health care program. "The Department of Public Health
19 and Social Services (DPHSS), in accordance with the Administrative
20 Adjudication Law, shall adopt regulations necessary to implement
21 and administer the provisions of this section.

22 (d) Waiver of Charges. The Guam Memorial Hospital
23 Authority (GMHA) is authorized and directed to waive its charges for
24 health services for tuberculosis, lytico, bodig, diabetes, or ESRD for
25 persons who are unable, with due diligence, to obtain adequate
26 public or private health insurance coverage for such care, and who
27 lack the means or financial ability to pay for their own care. GMHA,
28 in accordance with the Administrative Adjudication Law, shall adopt
29 regulations necessary to implement and administer the provisions of
30 this section.

31 Section 4. Severability. If any provision, clause or phrase of this Chapter,
32 or the application thereof to any person, legal entity or circumstance is held
33 invalid, such invalidity shall not affect other provisions or applications of this
34 Chapter which may be given effect without the invalid provision or application, and
35 all provisions of this Chapter are therefore declared to be separable.

1
2
3

Section 5. Effective Date. The provisions in this amended Section 2913.10
are effective thirty days after this Act becomes law.



September 28, 1994

MEMORANDUM

Committees:

CHAIRPERSON:

Rules

VICE CHAIRPERSON:

Ways & Means

MEMBER:

Economic-
Agricultural
Development,
and Insurance

Education

Electrical
Power and
Consumer
Protection

Federal and
Foreign Affairs

General
Governmental
Operations and
Micronesian Affairs

Health,
Ecology and
Welfare

Judiciary
and
Criminal Justice

Tourism and
Transportation

Youth, Senior
Citizens and
Cultural Affairs

TO: The Committee on Health, Ecology and Welfare

FROM: Chairperson, Committee on Rules

SUBJECT: Governor's Message

The following Governor's Message was received by my office and is being forwarded to you for your information.

GOVERNOR'S MESSAGE TRANSMITTING A DRAFT BILL TO AMEND SECTION 2913.10 OF TITLE 10 OF GUAM CODE ANNOTATED, IN ORDER TO MAINTAIN FEDERAL FUNDING FOR HEALTH SERVICES FOR THE TREATMENT OF PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO, BODIG, DIABETES, OR END STAGE RENAL DISEASE (ESRD).

HERMINIA D. DIERKING

Attachment

Committee On:
HEALTH, ECOLOGY, & WELFARE
Received By:
Date: 10/4/94 Time: 11:00



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
L'FISINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

OFFICE OF THE SPEAKER

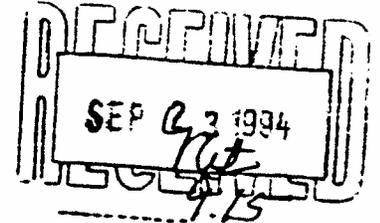
DATE: 9/22/94

TIME: 9:30am

RECD BY: FERRY

REFER TO
LEGISLATIVE SECRETARY

SEP 21 1994



The Honorable Joe T. San Agustin
Speaker, 22nd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Speaker:

I am pleased to transmit herewith the enclosed bill to amend Section 2913.10 of Title 10 of Guam Code Annotated, in order to maintain federal funding for health services for the treatment of persons afflicted with tuberculosis, lytico, bodig, diabetes, or end stage renal disease (ESRD). This bill will allow us to maximize the use of federal programs and payments to fund health care services, while ensuring that all persons receive treatment for these five illnesses, including those who are unable to pay for such care and who are either uninsured or underinsured.

The bill directs the Department of Public Health and Social Services to identify the persons now in the Medically Indigent Program (MIP) who are receiving treatment for these diseases, and to ensure that those who are unable to obtain adequate public or private health insurance coverage for such care and who lack the financial means to pay for their own care, receive the necessary care either through the MIP program, GMHA, or other appropriate health care program. GMHA is authorized and directed to waive its charges for health services for these diseases for persons who are unable to obtain adequate public or private health insurance coverage for such care, and who lack the financial ability to pay for their own care.

On August 2, 1994, the Associate Regional Administrator of the Health Care Financing Administration (HCFA) of the U.S. Department of Health and Human Services sent a letter to its intermediaries for the processing of Medicare claims, informing them that "Medicare-certified ESRD providers, physicians and practitioners on Guam should not be entitled to receive Medicare program payments for ESRD services rendered because such services are included in the free-care provisions of Guam law." The HCFA Regional Administrator asked its intermediaries to immediately notify all Guam ESRD practitioners in writing that "payments to these health care practitioners and physicians may be suspended unless the Guam Code is amended soon. In addition, payments already received may be considered at risk and subject to overpayment recovery."

003076



Commonwealth Now!

Speaker Joe T. San Agustin
Page 2

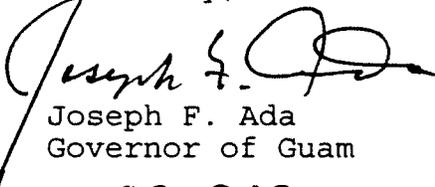
Medicare's annual payments to Guam health care providers for ESRD services total about \$1 million. About \$8 million in past payments for ESRD services are potentially subject to overpayment recovery. In addition, Medicare payments for other illnesses in Guam's free care program may be at risk. Sections 1862(a)(2) and 1862(a)(3) of the Social Security Act (42 U.S.C. § 1395y) state that no Medicare payments may be made for any expenses incurred for items or services "for which the individual furnished such items or services has no legal obligation to pay" or "which are paid for directly or indirectly by a governmental entity."

Guam providers will be able to continue receiving Medicare payments only if our free care statute is amended to include a means test, so that those persons who have the financial means (either personally or through their private health insurance) to pay for their own care, are required to do so. Only those persons who are uninsured or underinsured and who lack the means to pay for their own care will receive up to 100% Government of Guam funded health care.

I want to be certain that we provide health care to everyone who needs it and that nobody who is unable to pay for their own care is left out of the health care coverage that this bill provides. Although the federal government is concerned about the legality of continued federal Medicare payments, I am equally concerned that in making this amendment we still cover those persons who are unable to pay for their own health care.

I urge you to give this matter your immediate attention so that we can maintain federal funding, avoid unnecessary liability, and continue to ensure all our people receive the necessary health care.

Sincerely,



Joseph F. Ada
Governor of Guam

220843

TWENTY-SECOND GUAM LEGISLATURE
(SECOND) Regular Session 1994

Bill No.

Introduced by:

At the request of the Governor

AN ACT TO AMEND SECTION 2913.10 OF TITLE 10 OF GUAM CODE ANNOTATED TO REQUIRE PERSONS AFFLICTED WITH TUBERCULOSIS, LYTICO, BODIG, DIABETES, AND IRREVERSIBLE RENAL FAILURE TO MEET A MEANS TEST IN ORDER TO OBTAIN GOVERNMENT OF GUAM PAYMENTS FOR HOSPITALIZATION AND MEDICAL SERVICES FOR SUCH DISEASES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Legislative Findings. The Legislature hereby finds and
3 determines that it is in the public interest to maximize the use of federal programs
4 and payments to fund health care services for the treatment of persons afflicted
5 with tuberculosis, lytico, bodig (Amyotrophic Lateral Sclerosis or Parkinsonism
6 Dementia), diabetes, or end stage renal disease (ESRD) who are unable to pay
7 for such treatment and who are either uninsured or underinsured. The Legislature
8 finds that it is the position of the federal government that it is necessary to make
9 changes in Guam law concerning Government of Guam funding of health care for
10 these five diseases in order to maintain federal funding therefor. Further, the
11 Legislature finds that the federal government has taken the position that Medicare-
12 certified ESRD providers, physicians and practitioners on Guam should not be
13 entitled to receive Medicare program payments for ESRD services rendered
14 because such services are included in the free-care provisions of Guam law.

15 Section 2. Legislative Intent. The Legislature hereby intends: to maintain
16 federal funding for the treatment of eligible persons afflicted with tuberculosis,
17 lytico, bodig (Amyotrophic Lateral Sclerosis or Parkinsonism Dementia), diabetes
18 or end stage renal disease (ESRD); to maximize participation in federally funded
19 health care programs; to ensure that those afflicted persons who have the
20 economic means, personally, or through private health insurance, to finance their
21 health care treatment for these five diseases, do so; and to ensure that all persons
22 receive health care treatments for these five diseases, including those who do not

1 qualify for federally funded or private insurance health care programs, who are
2 unable to pay for such treatment, and who are either uninsured or underinsured.
3

4 Section 3. §2913.10 of Title 10 Guam code Annotated, is hereby repealed
5 and reenacted to read as follows:

6 *§2913.10. Program Requirements. To be eligible for coverage, an
7 applicant for the Medically Indigent Program must be a resident of Guam
8 who applies for and qualifies for assistance as determined by the Medically
9 Indigent Program eligibility standards according to the following three sets
10 of criteria: Income Limitations, Resource Limitations and Residence
11 Requirement except that no Residence Requirement shall be imposed for
12 persons with tuberculosis. Eligibility shall begin in the month the
13 application is received. Coverage of eligibility can be retroactive to three
14 months back (90 days) except for services requiring program prior
15 authorization.

16 (a) Eligibility. An applicant must also be one who is or would be
17 legally obligated to pay for medical services rendered to such person but,
18 through indigence or other financial circumstances, is unable to pay for
19 such services and either:

20 (a) (1) is not eligible for Medicare or Medicaid coverage under
21 Title XVIII or XIX of the Social Security Act; or

22 (b) (2) has neither private medical insurance coverage nor the
23 financial ability to pay for medical insurance coverage or for medical
24 services as determined by the program; or

25 (c) (3) has Medicare, Medicaid or private medical insurance
26 coverage but such coverage is inadequate to cover the cost of medically
27 required treatment and where such person is otherwise qualified for the
28 program as a result of inadequate income or resources.

29 (b) Limitation. Any supplemental coverage provided pursuant to this
30 Article is limited to those items or services for which coverage is not
31 otherwise provided by any primary insurer. Supplemental coverage may
32 include amounts due for co-insurance obligations, deductibles, and other
33 services for which a specific primary coverage may not have been available
34 at the time the medical service was rendered, and is further subject to the
35 coverage and all limitations of the Medically Indigent Program. Coverage
36 and limitations.

1 ~~The free hospitalization and medical care of persons afflicted with~~
2 ~~tuberculosis, or lytico or bodig (Amstrophic Lateral Seleresis or~~
3 ~~Parkinsonism Dementia), and insulin injections for diabetes patients, and~~
4 ~~irreversible renal failure shall continue under the Medically Indigent~~
5 ~~Program without regards to income and resources. Residency requirement~~
6 ~~is waived for persons with tuberculosis.~~

7 (c) Additional Coverage. The Government of Guam, through
8 the Medically Indigent Program (MIP) shall pay for health services for
9 tuberculosis, lytico, bodig, diabetes, or ESRD for persons who are
10 unable, with due diligence, to obtain adequate public or private
11 health insurance coverage for such care, and who lack the means or
12 financial ability to pay for their own care. DPHSS shall identify the
13 persons now in the MIP free care program and ensure that those
14 who are unable, with due diligence, to obtain adequate public or
15 private health insurance coverage for such care, and who lack the
16 means or financial ability to pay for their own care, receive the
17 necessary care, either through the MIP program, GMHA, or other
18 appropriate health care program. "The Department of Public Health
19 and Social Services (DPHSS), in accordance with the Administrative
20 Adjudication Law, shall adopt regulations necessary to implement
21 and administer the provisions of this section.

22 (d) Waiver of Charges. The Guam Memorial Hospital
23 Authority (GMHA) is authorized and directed to waive its charges for
24 health services for tuberculosis, lytico, bodig, diabetes, or ESRD for
25 persons who are unable, with due diligence, to obtain adequate
26 public or private health insurance coverage for such care, and who
27 lack the means or financial ability to pay for their own care. GMHA,
28 in accordance with the Administrative Adjudication Law, shall adopt
29 regulations necessary to implement and administer the provisions of
30 this section.

31 Section 4. Severability. If any provision, clause or phrase of this Chapter,
32 or the application thereof to any person, legal entity or circumstance is held
33 invalid, such invalidity shall not affect other provisions or applications of this
34 Chapter which may be given effect without the invalid provision or application, and
35 all provisions of this Chapter are therefore declared to be separable.

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Section 5. Effective Date. The provisions in this amended Section 2913.10 are effective thirty days after this Act becomes law.