I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN

2020 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 393-35 (LS) As substituted in the Committee of the Whole.	**Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building September 2, 2020**					
NAME	**Aye**	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**
Senator William M. CASTRO	✓					
Senator Régine Biscoe LEE	✓					
Senator Kelly G. MARSH (TAITANO), PhD	✓					
Senator James C. MOYLAN	✓					
Senator Louise B. MUÑA	✓					
Speaker Tina Rose MUÑA BARNES	✓					
Vice Speaker Telena Cruz NELSON						✓
Senator Sabina Flores PEREZ	✓					
Senator Clynton E. RIDGELL	✓					
Senator Joe S. SAN AGUSTIN	✓					
Senator Amanda L. SHELTON	✓					
Senator Telo T. TAITAGUE	✓					
Senator Jose "Pedo" TERLAJE	✓					
Senator Therese M. TERLAJE	✓					
Senator Mary Camacho TORRES	✓					

TOTAL:	**14**					**1**
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

RENNAE V. C. MENO
Clerk of the Legislature

I = Pass

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 393-35 (LS)
As substituted in the Committee of the Whole.

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Introduced by: Amanda L. Shelton

AN ACT TO ADOPT RULES AND REGULATIONS FOR THE *AYUDA I MANGÅFA* HELP FOR FAMILIES PROGRAM PURSUANT TO PUBLIC LAW 35-94.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Adoption. *I Liheslaturan Guåhan* hereby adopts the Rules and Regulations, as amended and attached, as "Exhibit A" entitled "Rules & Regulations for the '*Ayuda I Mangåfa'* Help for Families Program Pursuant to Public Law 35-94."

“EXHIBIT A”

Rules & Regulations for the ‘Ayuda I Mangafa’ Help for Families Program Pursuant to Public Law 35-94

Ayuda I Mangafa Help for Families Program Proposed Rules and Regulations

NOTE: Pursuant to Section 3 of Guam Public Law 35-94, the Director of the Department of Revenue and Taxation (DRT) shall formulate rules and regulations for the implementation and administration of the Ayuda I Mangafa Help for Families Program.

I Liheslaturan Guahan finds that the federal and local government have provided direct cash payments to assist individuals and businesses. These aid packages, however, have left out substantial categories of individuals, leaving many families without the assistance that is needed, as these aid packages do not provide direct stimulus payments to families with dependents over the age of sixteen (16) years old. The current federal language also unjustly omits stimulus payments for individuals with disabilities over the age of sixteen (16) who are claimed as dependents by families.

It is, therefore, the intent of I Liheslaturan Guahan to provide funding assistance to Guam families with young adults, students, and disabled individuals who are claimed as dependents of these families.

The Director of the Department of Revenue and Taxation shall administer the Ayuda I Mangafa Help for Families Program (the Program) and the distribution of payments to families. In the case of an eligible individual, there shall be allowed a payment equal to the product of Five Hundred Dollars ($500) multiplied by the number of eligible qualifying children within the family. Eligible individuals shall submit an application for approval by the Department of Revenue and Taxation.

Section A. Who is an Eligible Individual:

1. An eligible individual is a Guam taxpayer who has:
    a. Filed a Guam Form 1040 Individual Income Tax Return for tax year 2019, or
    b. Received a Form SSA-1099 or Form RRB-1099 for Social Security Benefits for calendar year 2019 and is not required to file a Guam income tax return for tax years 2019 or 2018, or
    c. Not filed a Guam income tax return for tax years 2019 or 2018 since he or she did not meet the income threshold and is not required to file a tax return for tax years 2019 or 2018, and
2. Must be a Guam resident in 2020, and
3. Has a qualifying child, as defined under Section B, who was claimed as a dependent on their Guam Form 1040 individual income tax return for tax year 2019 or their application filed with the Department of Revenue and Taxation in the form as prescribed by the Director under Section G, and
4. Whose adjusted gross income meets the threshold amount as stated in Section D.

Section B. Who is a Qualifying Child:

A qualifying child is a child who must meet the relationship test, residency test, age requirement, support test and joint return test for tax year 2019 as described in subsections 1 through 5 in this Section and is claimed as a dependent on the taxpayer's Guam Form 1040 individual income tax return for tax year 2019 or the application filed with the Department of Revenue and Taxation under Section G.

1. ***Relationship Test:*** The child must be your:
    a. Son, daughter, adopted child, stepchild or a descendent of any of them, such as your grandchild, or
    b. Brother, sister, half-brother, half-sister, stepbrother, stepsister or a descendant of any of them, such as a niece or a nephew, or
    c. Foster Child - a child is an eligible foster child if the child is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.
2. ***Residency Test:*** The child must have lived in the same main home as the taxpayer (or spouse if filing a joint return) on Guam for more than half of taxable year 2019,
    a. In the case of temporary absences, the child is considered to have lived with the taxpayer during the periods when either the child or the taxpayer, or both, are temporarily absent from the home due to special circumstances. A nonpermanent failure to occupy the home by reason of illness, education, business, vacation, military service or a custody agreement under which the child is absent for less than 6 months in the tax year with the taxpayer, shall be considered temporary absence due to special circumstances.
3. ***Age Requirement:***
    a. At the end of 2019, the child must be younger than the taxpayer (or spouse if filing a joint return) and at least 17 and under 19 years of age, or

b. At the end of 2019, the child must be younger than the taxpayer (or spouse if filing a joint return) and at least 19 and under 24 years of age, and a full-time student, or

i. Full-time student shall mean a child who during each of the five calendar months during the calendar year in which the taxable year begins is a full-time student at an education organization or is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization.

ii. Education organization shall mean an organization 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.

c. At the end of 2019, the child must be permanently and totally disabled, regardless of age.

i. Permanently and totally disabled means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. An individual shall not be considered permanently and totally disabled unless the individual furnishes proof of the existence thereof in such form

and manner, and at such times, as the Director may require as provided under Section H(6)(d).

4. ***Support Test:*** The child must have not provided over one-half of his or her own support for taxable year 2019,
    a. The total amount of support provided by the child is compared to the total amount of support that the child received from all sources for tax year 2019. Support includes amounts spent to provide food and clothing, lodging, medical and dental care, education, and similar items.
5. ***Joint Return Test:*** The child must not be filing a joint return with their spouse for taxable year 2019.

Section C. Qualifying Child of More than One Taxpayer:

1. A child can meet the relationship test, residency test, age requirement, support test and joint return test to be a qualifying child of more than one taxpayer as defined under Section B. Although the child is the qualifying child of each of these individuals, only one eligible individual can treat the child as a qualifying child for payment under the Program. There shall only be one payment made for each qualifying child and there shall be no duplicate payments for the same qualifying child under the Program. If there are two or more taxpayers who claim the same qualifying child, determination of who will be entitled to receive payment for the qualifying child shall be based on the tiebreaker rules in subsection 2 of this Section.
2. To determine which individual can treat the child as a qualifying child to qualify for payment under the Program, the following tiebreaker rules under (a) through (e) of this Section shall apply.

a. If only one of the individuals is the child's parent, the child is treated as the qualifying child of the parent.
b. If the parents file a joint return or application together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
c. If the parents do not file a joint return or application, but both parents claim the child as a qualifying child, DRT will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time during the year. If the child lived with each parent for the same amount of time, DRT will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year.
d. If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the individual who had the highest AGI for the year.
e. If a parent can claim the child as a qualifying child but no parent does so claim the child, the child is treated as the qualifying child of the individual who had the highest AGI for the year, but only if that individual's AGI is higher than the highest AGI of any of the child's parents who can claim the child.

Section D. Adjusted Gross Income Threshold Amounts:

1. Taxpayers whose Adjusted Gross Income reported on the Guam Form 1040 individual income tax return for tax year 2019 exceeds the following maximum adjusted gross income shall not be eligible for this Program:

a. $150,000 or more in the case of a joint return
b. $112,500 or more in the case of a Head of Household; or
c. $75,000 or more in the case of a taxpayer not described in subsection a. or b. above.

Section E. Filing of a Tax Return:

Eligible individuals, who are required to file a Guam Form 1040 individual income tax return for tax years 2019 or 2018, must have filed a tax return with a qualifying child as defined under Section B and meet the AGI threshold requirements under Section D(1) to qualify for payment under the Program. Eligible individuals must file the Form 3594GU application under Section G and submit the required documents under Section H to qualify for payment under the Program.

Eligible individuals who did not file a Guam income tax return since they did not meet the income thresholds and are not required to file a tax return for tax years 2019 or 2018, but do have a qualifying child for tax year 2019, must file the Form 3594GU application under Section G and submit the required documents under Section H to qualify for payment under the Program.

Section F. Social Security Benefit (SSB) Recipients with a Qualifying Child:

SSB recipients who are not required to file a Guam Form 1040 individual income tax return for tax years 2018 or 2019, but do have a qualifying child for tax year 2019, must submit their Form SSA-1099 or Form RRB-1099 statements for calendar year 2019 along with the Form 3594GU application under Section G and the required documents under Section H

to qualify for payment under the Program. The AGI threshold requirements in Section D(1) will still apply to determine AGI eligibility.

Section G. How to File a Claim for Payment:

Form 3594GU application – Eligible individuals must register at the website specified by the Director of the Department of Revenue and Taxation to fill out and submit the application online, along with the required documents pursuant to Section H or must file an application and submit the required documents in such other form as prescribed by the Director.

Section H. Additional Documents to be submitted along with Form 3594GU application:

The following documentation must be submitted with your Form 3594GU application to qualify for payment under the Program. Additional documentation may be required, as deemed necessary, upon verification of your completed application and the supporting documentation listed below. Other documents may be accepted if it establishes that your child meets the qualifying child requirements under Section B. These documents will be subject for review and verification.

1. Completed Form 8821, *Tax Information Authorization*, to authorize the Department of Revenue and Taxation to inspect and receive your Guam Form 1040 individual income tax return and return information for tax years 2019 and 2018 for the purpose of administering the Program, and
2. Copy of your Form SSA-1099 or Form RRB-1099, Social Security Benefit Statement, for calendar year 2019, if you are an SSB

recipient who is not required to file a tax return for tax years 2019 or 2018, and

3. Social Security number card(s) for you and each qualifying child, and
4. If your child was at least 17 and under 19 years of age as of December 31, 2019:
    a. Birth Certificate(s) to verify your relationship to the child,
    b. Court order or letter from an authorized placement agency, if claiming a foster child or adopted child, and
    c. Guam Mayor's certification to show that you and the child lived together at the same address for more than half of tax year 2019.
5. If your child was at least 19 and under 24 years of age and was a full-time student as of December 31, 2019:
    a. Birth Certificate(s) to verify your relationship to the child,
    b. Court order or letter from an authorized placement agency, if claiming a foster child or adopted child, Guam Mayor's certification to show that you and the child lived together at the same address for more than half of tax year 2019, and
    c. Official school records to show that the child was a full-time student for at least five months of tax year 2019 (the months do not have to be consecutive). The official school records must include the child's name, address of record and the dates the child attended the school during tax year 2019.
6. If your child was any age and was permanently and totally disabled as of December 31, 2019:
    a. Birth certificate(s) to verify your relationship to the child,

b. Court order or letter from an authorized placement agency, if claiming a foster child or adopted child,
c. Guam Mayor's certification to show that you and the child lived together at the same address for more than half of tax year 2019, and
d. Official statement from a qualified physician obtained within the last three years certifying that the child is permanently and totally disabled. The child is permanently and totally disabled if both of the following apply: (1) the child cannot engage in any substantial gainful activity because of a physical or mental condition, and (2) it is medically determined that the condition has lasted or can be expected to last for a continuous period for at least a year or lead to death.

Section I. Deadline to Submit Application and Required Documents:

The application period for eligibility under the Program shall end 30 business days after the date of implementation of the Program. Such date shall be prescribed by the Director. Individuals who submit their applications after the application period shall not qualify for payment under the Program. Required documents must be submitted with the application to qualify for payment under the program. Applications without required documents will not be considered complete. No payment shall be made or allowed under the Program after March 31, 2021.

Section J. Amount of the Payment:

A one-time payment of $500 shall be allowed for each qualifying child claimed as a dependent by the eligible individual (and spouse if filing

jointly) on their Guam Form 1040 individual income tax return for tax year 2019 or their Form 3594GU application. Eligible individuals shall not include on the Form 3594GU application and shall not receive payment under the Program for qualifying children who have not attained age 17 which the taxpayers received or are eligible to receive the recovery rebate credit (or economic impact payment) for these children pursuant to §6428(a)(2) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.

Section K. Alternate Tax Year:

If the taxpayer (and spouse if filing a joint return) has not filed a Guam Form 1040 individual income tax return for tax year 2019 at the time of submitting the application, said taxpayer may qualify for this Program if they filed a Guam Form 1040 individual income tax return for taxable year 2018. The taxpayer may substitute tax year 2018 for tax year 2019 to determine eligibility for this Program and must file the Form 3594GU application under Section G and submit the required documents under Section H to qualify for payment under the Program.

Section L. Funding

The maximum amount allowed to be paid under the Program, not including administrative costs, is Ten Million Dollars ($10,000,000).