I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 231-31 (COR), "AN ACT TO *REPEAL* AND *REENACT* §23111 OF CHAPTER 23, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE MEDICAL REFERRAL BENEFITS BANK ACT, AND TO BE KNOWN AS "THE SENATOR EDWARD J. CRUZ MEDICAL REFERRAL MILEAGE BANK ACCOUNT ACT ",** was on the 19th day of September, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 20th day of Sept., 2011, at 4:10 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 231-31 (COR)
As amended on the Floor.

Introduced by: v. c. pangelinan
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
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AN ACT TO *REPEAL* AND *REENACT* §23111 OF CHAPTER 23, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE MEDICAL REFERRAL BENEFITS BANK ACT, AND TO BE KNOWN AS "THE SENATOR EDWARD J. CRUZ MEDICAL REFERRAL MILEAGE BANK ACCOUNT ACT."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the limited amount of travel funds for patients of Guam's indigent community, who are referred to an off-island provider for treatment, hampers the expedient departure of these patients to receive treatment. The Medical Referral Benefits

Bank Account (MRBBA) was created for all government employees and/or consultants to deposit frequent flier miles accrued through government funded travel for use by these patients. The Travel Section within the Department of Administration currently captures and deposits accrued miles on government paid travel through a First Hawaiian Bank (FHB) credit card account, entrusted to the Treasurer of Guam, which accrues mileage through Continental's One Pass Program. The MRBBA has never truly fulfilled its mandate, and still *does not* capture miles accrued by government of Guam employees who *do not* use the credit card account at the Department of Administration. These miles remain with the employee and fees are charged for the transfer of these miles to the government account.

I Liheslaturan Guåhan further finds that the *Ayuda* Foundation's "Wings for Life" Program (Program) is a nonprofit organization that assists indigent patients that require off-island medical care. Organizations and/or persons who deposit miles into the Program are *exempted* from paying any fees associated with the transfer of miles. Currently, the Program coordinates travel itineraries and offers mileage credit for eligible patients with the Director of the Department of Public Health and Social Services (DPHSS), who oversees the Medically Indignant Program (MIP). In November of 2009, the Office of Public Accountability (OPA Report #09-06) stated that it would benefit the MRBBA if the Director of DPHSS was the delegated administering party. Current law mandates the Administrator of the Guam Memorial Hospital Authority to oversee the MRBBA.

I Liheslaturan Guåhan recognizes that the time it takes to receive the necessary signatures to authorize the patient to travel, through standard government protocol, delays the patient's departure date. It is unacceptable when these travel authorizations become stagnant while waiting for a signature. For some patients, every moment waiting is a moment lost for care.

I Liheslaturan Guåhan intends to utilize the Program for all government employees to deposit their miles without having to pay for any fees associated with the transfer by repealing and reenacting §23111 of Chapter 23, Title 5, Guam Code Annotated, relative to the MRBBA, to maximize government resources and to streamline services to better serve those in need of immediate off-island medical care.

Section 2. §23111 of Chapter 23, Title 5, Guam Code Annotated, is hereby *repealed* and *re-enacted* to read as follows:

"**§ 23111. The Senator Edward J. Cruz Medical Referral Mileage Bank Account Act.**

(a) **Title.** This Section may be cited and referred to as the *"Senator Edward J. Cruz Medical Referral Mileage Bank Account Act."*

(b) **Medical Referral Mileage Bank Account.** There is hereby created within the government of Guam an accrued travel mileage account for the banking of travel mileage earned as a result of travel paid by the government of Guam. This account *shall* be known as the *Senator Edward J. Cruz Medical Referral Mileage Bank Account* (MRMBA) to be administered by the Department of Administration for all employees of government agencies, instrumentalities, autonomous agencies, public corporations and branches of the government of Guam to deposit all accrued travel mileage by virtue of receiving travel authorization payments into the MRMBA.

(c) **Definitions.** For the purposes of this Section the following words and phrases are defined to mean:

Account means the Senator Edward J. Cruz Medical Referral Mileage Bank Account established under this Section.

Accrued mileage means those miles accrued by an employee and/or consultant traveling on government or federal paid travel in the government account *or* in the employee's frequent flyer travel benefit program.

Department means the Department of Administration.

Employee means *all* persons employed within the government of Guam, whether classified or unclassified, or full-time, part-time, temporary or limited-term basis; *all* elected officials, judges, mayors, individual consultants, and members of boards and commissions.

Travel benefit means a program designed by an airline that awards accrued mileage and benefit programs to its clients.

(d) **Requirement.** *All* employees of the legislative, judicial and executive branches, including, but *not* limited to, all government agencies, instrumentalities, autonomous and semi-autonomous agencies, public corporations, the University of Guam, the Guam Community College, the Guam Visitors Bureau, the Department of Education, all elected officials, individual consultants of the government of Guam, and members of boards and commissions, as well as non-government persons traveling at government of Guam or federal government expense, *shall*, as a condition of receiving local or federal monies under a travel authorization (TA) contractual allotment for travel, or any government of Guam monies, used directly or indirectly for expenses incurred for official government travel, *shall* donate all mileage accrued to the *Ayuda* Foundation, if the mileage accrued has *not* already been credited to a government of Guam mileage bank account. The employee *shall* sign a waiver form donating accrued mileage from any travel benefit on whatever airline into the MRMBA, *or* directly to the *Ayuda* Foundation as identified in §23117.

(e) **Eligibility.** (1) The following persons are eligible for participation to receive the mileage for off-island medical care:

(A) patients under the Medically Indigent Program and patients under other DPHSS income-based health programs as approved by the Director of the Department of Public Health & Social Services; and

(B) all health care staff (physicians, nurses, technicians) providing direct care to the patient being transported, as approved by the Medical Director of the Guam Memorial Hospital Authority *or* his/her designee.

(2) Patient eligibility *shall* be based upon:

(A) financial need as identified under the requirements of the Medically Indigent Program or under the requirements of other DPHSS income-based health programs;

(B) lack of availability of required medical services on Guam; and

(C) urgency and severity of illness, as documented by an attending physician.

(f) **Authorized Use.** The accrued mileage account *shall* be used to send patients off-island, through a certified medical referral for patients, to a destination determined by the patient's duly licensed physician with the concurrence of the Medically Indigent Program Coordinator of the Department of Public Health & Social Services.

(g) **Other Travel Benefits.** All other travel benefits, including, but *not* limited to, volume purchase discounts and accrued number of ticket purchases for free flight benefits and promotional travel benefits *shall* be accrued and used for the purpose of this Program. The Director of

Administration *shall* establish procedures for management of these benefits and for distribution as requested by the Medically Indigent Program Coordinator of the Department of Public Health & Social Services, or his/her designee.

(h) **Deposit of Mileage.**

(1) The Department is hereby authorized to become a member of the travel benefits program as it relates to travel mileage instituted by any and all airlines serving Guam, and *shall* enter into an agreement with an airline to accrue travel mileage credits for employees traveling on government and/or federally funded travel.

(2) The Department *shall* enter into an agreement with a bank on Guam for a credit card to use as payment for travel for employees traveling on government and/or federally funded travel, and to accrue mileage.

(3) Employees *not* using the Department's credit card *shall* be personally liable to deposit any travel miles accrued directly to the *Ayuda* Foundation via whatever airline website, which has agreed to accept mileage credits on behalf of the *Ayuda* Foundation. The employee *shall* be required to submit the confirmation copy of the accrued mileage deposit(s) made, and *shall* be included in the required travel report submitted to the Certifying Officer or equivalent of their respective department within ten (10) days upon their return from off-island funded travel.

(i) **Reporting.** The employee traveling on government and/or federally funded travel who does *not* use the credit card with the Department *shall* submit a copy of the form evidencing the deposit of mileage into the *Ayuda* Foundation to the Certifying Officer or equivalent of the department

or agency, who *shall* maintain a reporting of all accrued mileage by employees traveling on government and/or federally funded travel. The Certifying Officer or equivalent of the department or agency *shall* submit a monthly report to the Travel Section of the Department of Administration of all accrued mileage. The Travel Section *shall* reconcile the report with the *Ayuda* Foundation on a monthly basis to ensure that the accrued mileage deposited by the department or agency is correct, and *shall* submit a quarterly report to *I Liheslaturan Guåhan* to include, but *not* be limited to, total miles accrued and donated per agency, total miles used for medical purposes, and any balances that remain. An audit *shall* be conducted of the MRMBA on an annual basis by the Office of Public Accountability, and submitted to *I Liheslaturan Guåhan no later than* September 30.

(j) **Penalties.** Any violation of this Section *shall* result in the following:

(1) An employee who fails to submit the confirmation copy of transfer of mileage to *Ayuda* evidencing the transfer of mileage pursuant to Subsection (h) of this Section, *shall* pay the amount equal to the cost the airline mileage program charges for the purchase of miles times the mileage accrued on the completed travel. If the employee fails to submit the confirmation copy, the total amount *shall* be deducted from the employee's salary for four (4) pay periods or until the total amount is paid in full.

(2) Any penalties paid *shall* be retained by the Medically Indigent Program to be used for the administration of the MRMBA.

(k) **Indemnification.** The government of Guam *shall* indemnify and hold harmless the participating airline(s) thereof for any loss subject to an agreement, and *provided* that such loss is *not* a result of the negligence of

the airline(s). *I Maga'lahen Guåhan* is hereby authorized to enter into such an indemnification agreement pursuant to this Section.

(l) **Rules and Regulations.** The Director of the Department of Public Health and Social Services in collaboration with the Director of the Department of Administration *shall* jointly promulgate rules and regulations within sixty (60) days from the date of enactment of this Section. The rules and regulations *shall* be promulgated pursuant to Article 3, Chapter 9 of Title 5, Guam Code Annotated, the *Administrative Adjudication Act, Rule Making Procedures*.

(m) **Travel Authorization Signatory Exemption.** For the purposes of this Section, any accrued mileage used out of the MRMBA for the Wings for Life Program will *not* be subject to the signatory parties as required with standard government travel authorization requests. Authorized signatories to approve the transfer of accrued mileage to ensure expedited travel *shall* be the Director of the Department of Public Health and Social Services and the Director of the Department of Administration *only*.

(n) **Effective Date.** This Section *shall* become effective on October 1, 2011."

Section 3. Severability. *If* any of the provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity *shall not* affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.