

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011(FIRST) REGULAR SESSION

Bill No. 231-31(COR)

Introduced by:

V.C. Pangelinan

2011 JUN 10 PM 2:00
[Signature]

AN ACT TO REPEAL AND REENACT §23111 OF
CHAPTER 23, 5 GUAM CODE ANNOTATED
RELATIVE TO THE MEDICAL REFERRAL
BENEFITS BANK ACT AND TO NAME IT THE
SENATOR EDWARD J. CRUZ MEDICAL
REFERRAL MILAGE BANK ACCOUNT

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **SECTION 1. Legislative findings and intent.** *I Liheslaturan Guahan*
2 finds that the limited amount of travel funds for patients of the island's indigent
3 community, who are referred to an off-island provider for treatment, hampers the
4 expedient departure of these patients to receive treatment. The Medical Referral
5 Benefits Bank Account (MRBBA) was created for all government employees
6 and/or or consultants to deposit one pass miles accrued through government
7 funded travel for use by these patients. The Travel Section within the Department
8 of Administration currently captures and deposits accrued miles on government
9 paid travel through a First Hawaiian Bank (FHB) credit card account, entrusted to
10 the Treasurer of Guam, which accrues mileage through Continental's One Pass
11 Program. The MRBBA has never truly fulfilled its mandate and still does not
12 capture miles accrued by government of Guam employees who do not use the
13 credit card account at the Department of Administration. These miles remain with

1 the employee and fees are charged for the transfer of these miles to the
2 government account.

3 *I Liheslaturan Guahan* further finds, the Ayudya Foundation’s “Wings for
4 Life” program (Program) is a nonprofit organization that assists indigent patients,
5 that require off-island medical care. Organizations and/or persons who deposit
6 miles into the Program are exempted from paying any fees associated with the
7 transfer of miles. Currently, the Program coordinates travel itineraries and offers,
8 mileage credit for eligible patients with the Director of the Department of Public
9 Health and Social Services (DPHSS), who oversees the Medically Indignant
10 Program (MIP). In November of 2009 the Office of Public Accountability (OPA
11 Report Number #09-06) stated that it would benefit the MRBBA if the Director of
12 DPHSS was the delegated administrating party. Current law mandates the
13 Administrator of the Guam Memorial to oversee the MRBBA.

14 *I Liheslaturan Guahan* recognizes that the time it takes to receive the
15 necessary signatures to authorize the patient to travel, through standard
16 government protocol, delays the patient’s departure date. It is unacceptable when
17 these Travel Authorizations’ become stagnant while waiting for a signature. For
18 some patients, every moment waiting is a moment lost for care.

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

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

1 "CHAPTER 23

2 GOVERNMENT TRAVEL LAW

3 ~~§ 23101. — Definitions.~~

4 ~~§ 23102. — Short Title.~~

5 ~~§ 23103. — Persons Authorized to Travel at Government Expense.~~

6 ~~§ 23104. — Per Diem Allowance.~~

7 ~~§ 23105. — Mileage Allowance.~~

8 ~~§ 23106. — Indirect Travel: Dependents.~~

9 ~~§ 23107. — Advancements. [Repealed]~~

10 ~~§ 23108. — Reporting and Accounting.~~

11 ~~§ 23109. — Rules and Regulations.~~

12 ~~§ 23110. — Limitation on Use of Travel Funds. [Repealed]~~

13 ~~§ 23111. — The Medical Referral Benefits Bank Act.~~

14 ~~§ 23111. The Medical Referral Benefits Bank Act.~~

15 (a) ~~Title. This Section may be cited and referred to as *The Medical Referral*~~
16 ~~*Benefits Bank Act.*~~

17 (b) ~~Medical Referral Benefits Bank Account. There is hereby created within~~
18 ~~the government of Guam a fund for the banking of travel mileage earned as a~~
19 ~~result of travel paid by the government of Guam. This fund shall be known as the~~
20 ~~*Medical Referral Benefit Bank Account* (the "MRBBA") to be administered by the~~
21 ~~Department of Administration for all government agencies, instrumentalities,~~
22 ~~autonomous agencies, public corporations and branches of the government of~~
23 ~~Guam into which shall be deposited all travel benefits which accrue to the~~
24 ~~government of Guam employee or consultant by virtue of receiving travel~~
25 ~~authorization payments.~~

1 ~~(c) Definitions. For purposes of this Act the following words and phrases are~~
2 ~~defined to mean:~~

3 ~~(i) *Account* means the Medical Referral Benefits Bank Account~~
4 ~~established under this Act.~~

5 ~~(ii) *Accrued mileage* means those miles accrued by a traveler on a frequent~~
6 ~~flyer benefit program.~~

7 ~~(iii) *Employee* means all persons employed within the government of~~
8 ~~Guam, whether classified or unclassified, or full time, part time, temporary or~~
9 ~~limited term basis; all elected officials, judges, mayors and individual~~
10 ~~consultants.~~

11 ~~(iv) *Travel benefit* means a program designed by an airline that awards~~
12 ~~accrued mileage and benefit programs to its clients.~~

13 ~~(d) Requirement.~~

14 ~~(i) All employees of the Legislative, Judicial and Executive Branches,~~
15 ~~including, but not limited to, all autonomous and semi-autonomous and those~~
16 ~~agencies, public corporations, the University of Guam, the Guam Visitors~~
17 ~~Bureau, the Department of Education, all elected officials and individual~~
18 ~~consultants of the government of Guam, as well as non-government persons~~
19 ~~traveling at government expense, shall, as a condition of receiving local or~~
20 ~~Federal monies under a travel authorization (TA) contractual allotment for~~
21 ~~travel, or any government of Guam monies, used directly or indirectly for~~
22 ~~expenses incurred for official government travel, sign a waiver form donating~~
23 ~~accrued mileage credits from any travel benefit on whatever airline, into the~~
24 ~~MRBB Account. The executed waiver form shall be required by the~~

1 ~~certifying officer of the respective entity prior to the certification of the~~
2 ~~availability of the funds for travel.~~

3 ~~(ii) All employees of the Legislative, Judicial and Executive Branches,~~
4 ~~including, but not limited to, all autonomous, semi-autonomous and those~~
5 ~~agencies, public corporations, the University of Guam, the Guam Visitors~~
6 ~~Bureau, the Department of Education, all elected officials and individual~~
7 ~~consultants of the government of Guam traveling in an official capacity shall~~
8 ~~be required to sign a waiver form donating accrued mileage credits from any~~
9 ~~travel benefit on whatever airline into the MRBB Account.~~

10 ~~(e) Eligibility. The following persons are eligible for participation:~~

11 ~~(i) patients and health care staff necessary for the transport of patients~~
12 ~~being medically referred to be treated off Island;~~

13 ~~(ii) patients under the Medically Indigent Program;~~

14 ~~(iii) all health care staff (physicians, nurses, technicians) providing direct~~
15 ~~care to the patient being transported, as approved by the Medical Director of~~
16 ~~Guam Memorial Hospital Authority.~~

17 ~~Patient Eligibility shall be based upon:~~

18 ~~(i) financial need;~~

19 ~~(ii) lack of availability or required medical services on Guam; and~~

20 ~~(iii) urgency and severity of illness, as documented by an attending~~
21 ~~physician.~~

22 ~~(f) Authorized Use. The accrued mileage account shall be used to send off-~~
23 ~~island medical referrals patients to the destination as determined by the patient=s~~

1 ~~duly licensed physician with the concurrence of the Guam Memorial Hospital~~
2 ~~Medical Director. Persons authorized to withdraw from the Account shall be the~~
3 ~~Medical Referral Office Manager and the Administrator of the Guam Memorial~~
4 ~~Hospital Authority, or his/her designee.~~

5 ~~(g) Membership. The government of Guam is hereby authorized to become a~~
6 ~~member of the travel benefits program instituted by any and all airlines serving~~
7 ~~Guam. All persons covered by this Act are required to become members of travel~~
8 ~~benefit programs sponsored by any and all airlines serving Guam, if required by~~
9 ~~the respective airlines, to satisfy the purpose of this Act.~~

10 ~~(h) Other Travel Benefits. All other travel benefits, including, but not limited~~
11 ~~to, volume purchase discounts and accrued number of ticket purchases for free~~
12 ~~flight benefits and promotional travel benefits shall be accrued and used for the~~
13 ~~purpose of this Program. The Director of Administration shall establish~~
14 ~~procedures for management of these benefits and for distribution as requested by~~
15 ~~the Medical Referral Office Manager or the Hospital Administrator, or his/her~~
16 ~~designee.~~

17 ~~(i) Negotiation. For the purposes of this Act, the Director of Administration~~
18 ~~may negotiate with any and all airlines serving Guam.~~

19 ~~(j) Deposit of Benefits. All mileage accrued by a government of Guam~~
20 ~~employee shall be deposited directly into the Account by the air carrier no later~~
21 ~~than ninety (90) days after the date of departure.~~

22 ~~(k) Penalties. Violation of this Act shall result in the following:~~

23 ~~(1) For those cited in Subsection (d) of this Act shall result in forfeiture of~~
24 ~~government funded travel or any government expense, including, but not~~

1 limited to, salaries paid while off Island per diem, for a period of one (1) year
2 from the date of last travel.

3 (2) The Certifying Officer of the responsible government department or
4 agency identified in Subsection (d) of this Act shall be individually or
5 personally liable for the payment of any amounts due on any of the official
6 trips made under the provisions of the Government Travel Law and shall be
7 guilty of a petty misdemeanor.

8 (1) Indemnification. The government of Guam shall indemnify and hold
9 harmless the participating airline(s) thereof for any loss subject to an agreement,
10 and provided that such loss is not a result of the negligence of the airline(s). *I*
11 *Maga'lahañ Guåhan* is hereby authorized to enter into such an indemnification
12 agreement pursuant to this Section.

13 (m) Rules and Regulations. The Administrator of the Guam Memorial
14 Hospital and the Director of the Department of Administration shall jointly
15 promulgate rules and regulations within sixty (60) days from the date of
16 enactment providing for the implementation of this Program on January 1, 1999.
17 These rules and regulations shall include provisions for non-compliance with this
18 Act and shall provide for the determination of eligibility as provided in this Act.
19 The rules and regulations shall be promulgated pursuant to Article 3, Chapter 9 of
20 Title 5 of the Guam Code Annotated, through the *Administrative Adjudication*
21 *Law, Rule-Making Procedures.*"

22 "CHAPTER 23

23 GOVERNMENT TRAVEL LAW

24 § 23101. Definitions.

25 § 23102. Short Title.

- 1 § 23103. Persons Authorized to Travel at Government Expense.
- 2 § 23104. Per Diem Allowance.
- 3 § 23105. Mileage Allowance.
- 4 § 23106. Indirect Travel: Dependents.
- 5 § 23107. Advancements. [Repealed]
- 6 § 23108. Reporting and Accounting.
- 7 § 23109. Rules and Regulations.
- 8 § 23110. Limitation on Use of Travel Funds. [Repealed]
- 9 § 23111. The Medical Referral Benefits Bank Act.
- 10 § 23112. Definitions.
- 11 § 23113. Requirement.
- 12 § 23114. Eligibility.
- 13 § 23115. Authorized Use.
- 14 § 23116. Other Travel Benefits.
- 15 § 23117. Deposit of Mileage.
- 16 § 23118. Reporting.
- 17 § 23119. Penalties.
- 18 § 23120. Indemnification.
- 19 § 23121. Rules and Regulations.
- 20 § 23122. Travel Authorization Signatory Exemption.
- 21 § 23123. Effective Date.

22 **§23111. The Medical Referral Mileage Bank Act.**

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

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

9 **§23112. Definitions.** For purposes of this Act the following words and
10 phrases are defined to mean:

11 *Account* means the Senator Edward J. Cruz Medical Referral Mileage
12 Bank Account established under this Act.

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

16 *Department* means the Department of Administration.

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

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

23 **§23113. Requirement.** All employees of the Legislative, Judicial and
24 Executive Branches, including, but not limited to, all autonomous and semi-

1 autonomous and those agencies, public corporations, the University of Guam, the
2 Guam Community College, the Guam Visitors Bureau, the Department of
3 Education, all elected officials, individual consultants of the government of Guam
4 and members of Boards and Commissions, as well as non-government persons
5 traveling at government of Guam or Federal government expense, shall, as a
6 condition of receiving local or Federal monies under a travel authorization ('TA')
7 contractual allotment for travel, or any government of Guam monies, used directly
8 or indirectly for expenses incurred for official government travel shall donate all
9 mileage accrued to the Ayuda Foundation, if the milage accrued has not already
10 been credited to a government of Guam milage bank account. The employee shall
11 sign a waiver form donating accrued mileage from any travel benefit on whatever
12 airline into the MRBB or directly to the Ayuda Foundation as identified in
13 §23117.

14 **§23114. Eligibility.** (a) The following persons are eligible for participation to
15 receive the mileage for off-island medical care:

16 (i) patients under the Medically Indigent Program as approved by the
17 Director of the Department of Public Health & Social Services;

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

21 (b) Patient Eligibility shall be based upon:

22 (i) financial need as identified under the requirement of the Medically
23 Indigent Program; and

24 (ii) lack of availability or required medical services on Guam; and

1 (iii) urgency and severity of illness, as documented by an attending
2 physician.

3 **§23115. Authorized Use.** The accrued mileage account shall be used to send
4 patients off-island through a certified medical referral for patients to a destination
5 determined by the patient's duly licensed physician with the concurrence of the
6 Medical Indigent Program Coordinator of the Department of Public Health &
7 Social Services.

8 **§23116. Other Travel Benefits.** All other travel benefits, including, but not
9 limited to, volume purchase discounts and accrued number of ticket purchases for
10 free flight benefits and promotional travel benefits shall be accrued and used for
11 the purpose of this Program. The Director of Administration shall establish
12 procedures for management of these benefits and for distribution as requested by
13 the Medical Indigent Program Coordinator with the Department of Public Health
14 & Social Services or his/her designee.

15 **§23117. Deposit of Mileage.**

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

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

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

9 **§23118. Reporting.** The employee traveling on government and/or federal
10 funding who does *not* use the credit card with the Department shall submit a copy
11 of the form evidencing the deposit of mileage into the Ayuda Foundation to the
12 Certifying Officer or equivalent of the department or agency who shall maintain a
13 reporting of all accrued mileage by employees traveling on government and/or
14 federal funds. The Certifying Officer or equivalent of the department or agency
15 shall submit a monthly report to the Travel Section of the Department of
16 Administration of all accrued mileage. The Travel Section shall reconcile the
17 report with the Ayuda Foundation on a monthly basis to ensure that the accrued
18 mileage deposited by the department or agency are correct and shall submit an
19 quarterly report to *I Liheslaturan Guahan* to include but not limited to, total miles
20 accrued and donated per agency, total miles used for medical purposes and any
21 balances that remain. An audit shall be conducted of the MRRB on an annual
22 basis by the Office of Public Accountability and submitted to *I Liheslaturan*
23 *Guahan* no later than September 30.

24 **§23119. Penalties.** Violation of this Act shall result in the following:

1 (a) An employee who fails to submit the confirmation copy of transfer of
2 mileage to Ayuda evidencing the transfer of mileage pursuant to §23117 in this
3 Act, shall pay the amount equal to the cost the airline mileage program charges for
4 the purchase of miles times the milage accrued on the completed travel. If the
5 employee fails to submit the confirmation copy, the total amount shall be
6 deducted from the employee's salary for four (4) pay periods or until the total
7 amount is paid in full.

8 (b) Any penalties paid shall be retained by the Medically Indignant Program to
9 be used for the adminstration of the MRBBA.

10 **§23120. Indemnification.** The government of Guam shall indemnify and
11 hold harmless the participating airline(s) thereof for any loss subject to an
12 agreement, and provided that such loss is not a result of the negligence of the
13 airline(s). *I Maga'lahren Guåhan* is hereby authorized to enter into such an
14 indemnification agreement pursuant to this Act.

15 **§23121. Rules and Regulations.** The Director of Department of Public
16 Health and Social Services in collaboration with the Director of the Department of
17 Administration shall jointly promulgate rules and regulations within sixty (60)
18 days from the date of enactment of this Act. The rules and regulations shall be
19 promulgated pursuant to Article 3, Chapter 9 of Title 5 of the Guam Code
20 Annotated, through the *Administrative Adjudication Law, Rule Making*
21 *Procedures*.

22 **§23122. Travel Authorization Signatory Exemption.** For purposes of this
23 Act, any accrued mileage used out of the MRBBA for the Wings for Life
24 Program, will *not* be subject to the signatory parties as required with standard
25 government travel authorization requests. Authorized signatories to approve the

1 transfer of accrued mileage to ensure expedited travel shall be the Director of the
2 Department of Public Health and Social Services and the Director of the
3 Department of Administration only.

4 **§23123. Effective Date.** This Act shall become effective on October 1,
5 2011.”

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