

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 299-32 (con)

Introduced by:

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AN ACT TO INCLUDE FOSTER CHILDREN IN THE GOVERNMENT OF GUAM GROUP HEALTH INSURANCE CONTRACT PROSPECTIVELY BY AMENDING §§ 4301 (a) AND (b), §4301.1(a), §4302, AND §4302.2(c), AND BY ADDING A NEW SUBSECTION (h) TO §4301.1, EACH OF ARTICLE 3, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED.

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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Short Title. This Act shall be cited as the "Responsible
3 Foster Child Health Insurance Act."

4 Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan*
5 finds that children in foster care may have previously suffered from abuse
6 and neglect or have been abandoned and, therefore, have extensive
7 physical and mental health needs that require immediate and quality
8 medical care.

9 *I Liheslatura* finds that the Child Protective Services Division of the
10 Department of Public Health and Social Services, as of March 19, 2014, has
11 a total of eighty-eight foster children under its legal custody, of which, two

1 foster children are covered by the Medically Indigent Program and eighty-
2 six foster children are covered by Medicaid.

3 *I Liheslatura* finds that the amount of health care providers able to
4 provide services to foster children is limited due to restrictions on care by
5 the Medically Indigent Program, and certain private physicians'
6 unwillingness to accept Medicaid as a payor for their services. However,
7 the insurance offered to employees of the government of Guam, retirees,
8 and their survivors allows more healthcare provider options.

9 *I Liheslatura* finds that it is more fiscally responsible to cover foster
10 children under the government of Guam health insurance plan due to the
11 increased competition in the government of Guam health insurance pool.
12 By covering foster children under the government of Guam health
13 insurance, excess funding may be used for other client needs.

14 It is therefore the intent of *I Liheslaturan Guåhan* to improve the access
15 and quality of medical care for foster children. Foster children shall be
16 covered by the government of Guam health insurance plan for employees,
17 retirees, and their survivors by amending Subsection (d) of §4301, Article 3,
18 Chapter 4, Title 4, Guam Code Annotated.

19 **Section 3. Group Insurance.** Subsection (a) of §4301, Article 3,
20 Chapter 4, Title 4, Guam Code Annotated is hereby *amended*, to read:

21 “(a) *I Maga’lahi* (the Governor) is authorized to enter contracts
22 and reject proposals, with the written concurrence of the Speaker of *I*
23 *Liheslaturan Guåhan* (the Guam Legislature) or the Presiding Judge of

1 the Superior Court of Guam whose consents may be withheld in their
2 sole discretion, with one (1) or more insurance companies, authorized
3 to do business in Guam, for group insurance, including, but not
4 limited to, hospitalization, medical care, life and accident, for all
5 employees or separate groups of employees and foster children of the
6 government of Guam. If the Legislative or Judicial Branches of
7 government elect to enter into separate contracts for their employees
8 as authorized in § 4301 (c), *I Maga'lahi* shall obtain the written
9 concurrence of the Branch electing to remain with the Executive
10 Branch before the group insurance contract is entered into or a
11 proposal rejected. The government shall not be construed as an agent
12 of any insurance company in negotiating or administering this group
13 insurance program. Health benefits provided under this authority
14 may be self funded and administered by a third party if it is
15 determined to be cost-effective.

16 **Section 4 Government of Guam to Cover Full Cost of Insurance**
17 **for Foster Children.** Subsection (b) of §4301, Article 3, Chapter 4, Title 4,
18 Guam Code Annotated is hereby *amended*, to read:

19 “(b) All participation by employees in such contracts of
20 insurance shall be on a voluntary basis. Effective in the next contract
21 following the enactment of this subparagraph, the government’s
22 contribution for health and dental insurance shall be uniform within
23 each class (including separate classes and rates for retired employees

1 and their survivors) for all competing plans and shall not be less than
2 fifty percent (50%) of the lowest premium for a single employee,
3 except that the government shall increase the contributions it makes
4 on behalf of a retired employee or survivor of a retired employee so
5 that the retired employee or the survivor of a retired employee
6 contributes no more than an active employee who is otherwise in the
7 same class. Notwithstanding any other provision of this Section to
8 the contrary, the government of Guam shall cover the full cost of
9 insurance coverage for foster children and such coverage shall
10 require no co-payments nor deductibles for foster children insured
11 pursuant to this Section.”

12 **Section 5. Definition of Health Insurance Providers.** Subsection (a)
13 §4301.1 of Article 3, Chapter 4, Title 4, Guam Code Annotated is hereby
14 *amended*, to read:

15 “(a) ‘Health Insurance Providers’ *are* all companies or other
16 legal entities providing or applying to provide health insurance or
17 the provision of health care to government employees and retirees
18 and foster children.”

19 **Section 6. Prescribed Use of Foster Children.** A *new* subsection (h)
20 is hereby added to §4301.1 of Article 3, Chapter 4, Title 4, Guam Code
21 Annotated, to read:

1 “(h) ‘Foster children’ *shall* include *only* those foster children
2 under the legal custody of Child Protective Services of the
3 Department of Public Health and Social Services.”

4 **Section 7. Same: Health Insurance or Provision of Health Care.**

5 §4302 of Article 3, Chapter 4, Title 4, Guam Code Annotated is hereby
6 *amended*, to read:

7 **“§ 4302. Same: Health Insurance or Provision of Health Care.**

8 (a) All companies or other legal entities providing or applying
9 to provide health insurance or the provision of health care to
10 government of Guam employees and foster children shall make their
11 audited financial statements available to the Director of
12 Administration annually. Such records shall be public records.

13 (b) The Director of Administration shall, no later than March 1,
14 1986, promulgate rules and regulations setting forth the other
15 information she/he requires from the companies or legal entities and
16 the method by which such information shall be reported. This
17 information shall be equitably required of each company and shall be
18 submitted no less than ten (10) days before any negotiations or active
19 consideration of proposals commences. Materials submitted in
20 fulfillment of this requirement shall not be considered public records,
21 except for the detailed claims utilization and cost information
22 required by § 4302(g), which shall be provided to current and
23 prospective health insurance carriers as part of the invitation to bid

1 for coverage to government of Guam employees and retirees and
2 foster children.

3 (c) The Government of Guam Health Insurance Negotiating
4 Team shall consist of the Director of Administration, who shall be
5 Chairperson; the Administrator of the Department of Integrated
6 Services for Individuals with Disabilities (DISID), or his or her
7 designee; the Director of the Bureau of Budget and Management
8 Research, or his or her designee; an employee representative from the
9 Judicial Branch to be appointed by the Chief Justice of the Supreme
10 Court of Guam; an employee representative of the Legislative Branch
11 to be appointed by the Speaker of *I Liheslaturan Guåhan*; the
12 Superintendent of the Department of Education, or his or her
13 designee; the Director of the Government of Guam Retirement Fund,
14 or his or her designee; a retiree who is a member of the Government
15 of Guam Retirement Fund to be appointed by the Board of Trustees
16 of the Government of Guam Retirement Fund; one (1) member of the
17 general public, appointed by *I Maga'låhen Guåhan*, who is not an
18 employee of the government of Guam, not an employee of a health
19 insurance company, hospital, or medical provider, or not an
20 appointee by the Governor to any government agency, board or
21 commission, and who shall affirm by affidavit that he or she agrees to
22 comply with all provisions in Chapter 15 of Title 4 of the Guam Code
23 Annotated, also known as the Standard of Conduct for Elected

1 Officers, Appointed Officers, and Public Employees of the
2 government of Guam; the Chairperson of the Committee on Health
3 or the successor committee of *I Liheslaturan Guåhan*, or his or her
4 designee, who shall sit as an ex-officio non-voting member; and the
5 Chairperson of the Committee on Appropriations, or the successor
6 committee of *I Liheslaturan Guåhan*, or his or her designee, who shall
7 sit as an ex-officio non-voting member. The Negotiating Team shall
8 examine the financial information of the prepaid health insurance
9 companies, health care providers or other legal entities for the
10 purpose of developing the most economical and beneficial health
11 plan for the Government of Guam employees and retirees and foster
12 children. The Negotiating Team may obtain technical support from
13 other financial and health-related agencies. The Negotiating Team
14 shall develop its rules of procedure in accordance with the
15 Administrative Adjudication Law. The Negotiating Team shall
16 develop minimum qualification for proposals to be submitted for
17 health insurance coverage. The Negotiating Team shall also develop
18 a ranking system to rank the proposals. The Negotiating Team with
19 the approval of *I Maga'låhi* is authorized to contract an actuary
20 competent to develop proposed health insurance rates or other
21 recognized expert to train and/or advise the Negotiating Team.
22 Notwithstanding any other provision of law, each Fiscal Year, the
23 Negotiating Team shall solicit both exclusive and non-exclusive

1 proposals from each Health Insurance Provider and enter into
2 negotiations with the top three (3) ranked Health Insurance Providers
3 submitting qualified proposals for health insurance coverage for
4 qualified active employees and qualified retirees and foster children
5 of the government of Guam.

6 (1) The Director of the Department of Administration
7 shall plan, and implement prior to discussions for the 2011-2012
8 Fiscal Year, an expanded competitive Request for Proposal
9 process. The Director shall announce in publications of general
10 circulation in Guam, in top publications nationally and in
11 leading publications internationally, a Request for Proposal
12 from Health Care Insurance Providers for health insurance
13 coverage for qualified active employees and qualified retirees
14 and foster children of the government of Guam.

15 (A) Health Care Insurance Providers that respond
16 and express interest in providing coverage to qualified
17 active employees and retirees shall, if selected, maintain a
18 bona-fide office and operations base in Guam and possess
19 a business privilege license to do business in Guam.

20 (2) The negotiating team upon selection and review of the
21 best available proposals by participating healthcare
22 respondents/providers which reflect the most economical and
23 beneficial healthcare insurance proposal plan for Government

1 of Guam employees and retirees and foster children, shall
2 forward the accepted proposals to *I Maga'lahren Guåhan* for
3 consideration, and to *I Liheslaturan Guåhan* for final approval no
4 later than July 31, and prior to the annual Legislative Sessions
5 wherein the upcoming Fiscal Year Budget for the Government
6 of Guam is before *I Liheslaturan Guåhan* for consideration;

7 (3) Within one hundred eighty (180) days of this Act, the
8 Director of the Department of Administration shall issue a
9 Request For Proposal from qualified individuals or firms to
10 conduct a feasibility study for a non-profit public healthcare
11 care insurance option for Guam.

12 The RFP shall call for a plan that provides for a level
13 playing field with current and future private insurers, and the
14 non-profit public healthcare care insurance option which pays
15 for care from individual premiums and copayments not of the
16 General Fund of the Government of Guam.

17 (d) No health insurance company or health care provider
18 contracted to provide health care to government of Guam employees
19 and foster children may deny coverage to the employee or
20 dependents or foster children on the basis of a congenital anomaly.
21 Congenital anomalies shall be covered, subject to contract
22 negotiations.

1 (e) Effective October 1, 1986, the contract period for health
2 insurance or provision of health care shall coincide with the fiscal
3 year of the government of Guam. To that end, the contract period
4 proceeding the one for FY'87 may be for less than twelve (12) months.

5 (f) All companies, or other legal entities providing or applying
6 to provide health insurance or the provision of health care, shall have
7 contracts for services with all government of Guam entities that are
8 providing health care services to any and all of their subscribers. This
9 requirement shall be met prior to, and as a condition to, the start of
10 negotiations for the government of Guam fiscal year 1999. Any
11 dispute or controversy between contracting parties shall be
12 submitted to arbitration according to the generally accepted local
13 practice.

14 (g) All health insurance companies or health care providers
15 contracted to provide health care to government of Guam employees
16 and retirees, to include foster children beginning for the first Fiscal
17 Year following the inclusion of foster children under the government
18 of Guam health insurance contract for employees and retirees
19 pursuant to §4301 of this Article, shall provide to the negotiating
20 team, defined in § 4302(c), and the Office of Finance and Budget,
21 fifteen (15) months of detailed claims utilization and cost information
22 from period October 1 to September 30 of the previous fiscal year,
23 and October 1 to December 31 of the current fiscal year, no later than

1 March 1 for the final updated data for the previous fiscal year in
2 electronic database file format such as Microsoft Access or Microsoft
3 Excel.

4 The detailed claims utilization and cost information must total
5 in aggregate all the experience data used to calculate government of
6 Guam insurance rates for the fiscal year following the current fiscal
7 year. Claims incurred but not received calculations shall be reported
8 separately and must be derived from detailed claims utilization and
9 cost information submitted and reviewed and approved by a
10 credentialed actuary from a recognized organization such as the
11 American Academy of Actuaries or Society of Actuaries.

12 The detailed claims utilization and cost information required
13 under this Subsection shall include only de-identified health
14 information as permitted under the Health Insurance Portability and
15 Accountability Act of 1996 and shall not include any protected health
16 information, as defined in the Health Insurance Portability and
17 Accountability Act of 1996.

18 Detailed demographic and claims utilization and cost
19 information shall include the following information with a unique
20 contract identifier that links all the following data to the same
21 contract:

22 (1) Type of contract based on all tiers used in program
23 design (EE, EE + SPOUSE, FAMILY, etc.);

1 (2) Patient demographics, date of birth, gender,
2 relationship to subscriber;

3 (3) Medical, Dental and Vision claims, line detail
4 including Diagnosis code (ICD9 or ICD10), Procedure codes
5 (CPT, HCPC, CDT), Revenue codes, Service dates, Service
6 provider (name, tax id, provider id, specialty code, city, state,
7 zip code), Plan payments, Member payment responsibility
8 (copay, coinsurance, deductible), Claim paid date, Type of bill
9 and Facility type;

10 (4) Prescription Drug claims, to include NDC codes,
11 Formulary tier identifier, pharmacy (name, provider id, city,
12 zip code), Plan payments, member payment responsibility
13 (copay, coinsurance, deductible) Claim paid date, Injectable
14 drug indicator, GPI number, ingredient cost, dispensing fee and
15 rebates; and

16 (5) Any other detailed demographic and claims utilization
17 and cost information as requested by the negotiation team in
18 the Invitation to Bid (ITB) for the fiscal year following the
19 current Fiscal year.

20 Failure to comply with requirements of this Section will result
21 in a 2.5% reduction of the quarterly premiums from the non-
22 compliant health insurance carrier. The information shall be provided
23 quarterly. The reduction shall be deducted from the premiums due to

1 the carrier in the succeeding quarter, if the information is not
2 received within forty-five (45) days of the end of the quarter. The
3 negotiating team defined in § 4302 (c) at their discretion, at any time
4 during the following fiscal year health insurance negotiations, may
5 disqualify proposals from health insurance carriers not in compliance
6 with this Section for their in force contract.

7 (h) No health insurance company or health care provider
8 contracted to provide health care to government of Guam employees
9 and foster children may deny coverage to the employee or
10 dependents or foster children on the basis of chronic orthopedic
11 deformities. Chronic orthopedic deformities, which may include
12 orthopedic and external prosthetic devices, including, but not limited
13 to, artificial joints and limbs, will be covered and may be subject to
14 maximum limitations per annum.

15 (i) No health insurance company or health care provider
16 contracted to provide health care to government of Guam employees
17 and foster children may deny coverage to the employee or
18 dependents or foster children on the basis of blood or blood
19 derivatives. Blood and blood derivatives will be covered and may be
20 subject to maximum limitations per annum."

21 **Section 8. Government of Guam Self Funded Employee Benefits**
22 **Trust Fund Accounts.** Subsection (c) of §4302.2, Article 3, Chapter 4, Title
23 4, Guam Code Annotated is hereby *amended*, to read:

1 “(c) All employer and employee premium payments shall be
2 deposited in the respective Self Funded Health Benefits Plan Trust
3 Fund Account. Any foster children covered by a Self Funded Health
4 Benefits Plan shall be fully paid for by the government of Guam;”

5 **Section 9. Effective Date.** This Act *shall* be effective prospectively
6 starting with the next open enrollment period and the foster children under
7 legal custody of Child Protective Services of the Department of Public
8 Health and Social Services *shall* be included in the risk pool for the next
9 health insurance contract negotiated by the Government of Guam Health
10 Insurance Negotiating Team pursuant to 4 GCA §4302.