

## **Amendments to SSA By-Laws**

### **ADD NEW: PART X. HEALTHCARE FUND**

#### **SUBPART A. ESTABLISHMENT, PAYMENTS, AND INVESTMENTS**

##### **Section 1001. Healthcare Fund**

Within the Social Security System there is established a Healthcare Fund (hereinafter “HF”) that is administered by the Administration exclusively for the purposes provided under 41 PNC, Part 9.

The HF consists of pooled funds for Palau Health Insurance (PHI), funds held for administrative purposes, and funds allocated to individual Medical Savings Accounts (MSAs).

The money in the HF shall be held solely for the purposes of funding PHI, funding administrative costs, and depositing funds into individual MSAs, and shall be kept in a separate account apart from any other fund or account established.

[41 PNC § 917]

##### **Section 1002. Payments into the HF**

The following shall be paid, at all times, into the HF:

- All employer and employee contributions;
- All funds appropriated, loaned, or granted for the purposes of the HF;
- All gifts, donations, and other charitable contributions;
- All proceeds from the investment of money from the HF;
- All civil and criminal judgments, penalties, interests, or costs; and,
- All proceeds from the sale of assets.

[41 PNC § 923]

##### **Section 1003. Payments out of the HF**

All subscription amounts for PHI, all expenses incurred in operations, and all deposits into individual MSAs shall be paid from the Fund.

[41 PNC §§ 901, 910, 918, 939]

#### **Section 1004. Palau Health Insurance Reserve**

Within the HF, there is hereby created a PHI Reserve. The Reserve consists of funds set aside from subscription fees and other payments into the Reserve to cover unexpected losses and is intended to maintain a balance of at least six months of benefit expenditures when fully funded.

[41 PNC § 954]

#### **Section 1005. Payments to Palau Health Insurance**

In addition to subscription amounts from the HF, PHI is authorized to receive other payments designated for the specific purposes of PHI from the following sources:

- All funds appropriated, loaned, or granted for the purposes of PHI;
- All gifts, donations, and other charitable contributions; and
- All proceeds from the investment of money from the Reserve.

[41 PNC § 917]

#### **Section 1006. Investments**

All investments of money in the HF shall be made in strict accordance with 41 PNC § 911, without exception. That Section requires that investments are made in the same manner as investments of funds under the Social Security Act, as codified in 41 PNC § 734.

[41 PNC § 911]

*Sections 1007 through 1020 reserved for future use*

### **SUBPART B. CONTRIBUTIONS, REPORTING, AND MEDICAL SAVINGS ACCOUNTS**

### **Section 1021. Employee Contributions**

All employees working in the Republic of Palau shall contribute amounts equal to 2.5% of the remuneration received by the employee in each calendar quarter.

Employee contributions shall be collected by their employer(s) by withholding the amount due from each remuneration payment. Every employer required to withhold employee contributions is liable for their payment on a quarterly basis.

[41 PNC § 924]

### **Section 1022. Employer Contributions**

All employers doing business in the Republic of Palau shall be liable to pay to an employer share of contributions for all their employees in amounts equal to 2.5% of the remuneration received by the employee in each calendar quarter.

[41 PNC § 924]

### **Section 1023. Contributions for Self-employed Individuals**

Every self-employed individual shall be liable to pay both the employer and employee share of contributions for him or herself.

For a self-employed individual with at least one employee, the amount of contribution due shall be presumed to be based on remuneration of twice the amount paid to the highest paid employee in that quarter and the self-employed individual shall contribute 5% of that amount.

For a self-employed individual with no employees, the amount of contributions due each quarter shall be presumed to be based on remuneration of 25% of his or her gross revenue in the preceding calendar year and the self-employed individual shall contribute 5% of that amount.

[41 PNC § 924]

### **Section 1024. Reporting and Payments**

Each employer and self-employed individual shall make reports and pay all amounts due using the same forms and at the same time as Quarterly Tax Reports are submitted to the Social Security Administration as described in Part VI. of these Social Security By-Laws.

[41 PNC §925]

### **Section 1025. Priority for Applying Payments**

The amounts paid by employers and self-employed individuals shall be applied to the amounts due to the Social Security Administration in the following order of priority:

- (a) Amounts due for Social Security contributions;
- (b) Amounts due to the HF for past due and then current PHI subscription fees;
- (c) Amounts due to the HF for MSAs; and,
- (d) Amounts due for interest, legal, and any other costs or fees due and owing to the HF by the Employer.

If the amounts paid are insufficient to cover the full amount due in any of the above categories, then the amounts paid shall be applied as determined by the Administrator, in his or her discretion. As an example only, if the amounts paid by the employer are enough to cover all Social Security contributions and PHI subscription fees, but the employer did not transmit enough funds to cover deposits into MSAs, then the Administrator may deposit funds into employees' MSAs before the employer's individual MSA and none of the amounts paid will reduce interest, legal or other costs and fees owed by the Employer to the HF.

[41 PNC § 807]

### **Section 1026. Employers Not Required to Pay HF Contributions**

An employer shall not be required to pay HF contributions if it is exempt from payment of contributions to Social Security, as identified in Section 215 of the Social Security By-Laws.

Retired chiefs and retired persons serving as state legislators, not otherwise covered through other employment, who receive remuneration which is exempt from Social Security contributions under 41 PNC §748, may voluntarily participate in the HF.  
[41 PNC § 741 & 743]

### **Section 1027. Government Contributions for Retired and Disabled Individuals**

Individual citizens who are age sixty (60) and older and not working and individual citizens who are disabled and not working shall have subscription costs for PHI paid by the National Government on a monthly or quarterly basis.

To be eligible for government payment of subscription costs, the individual citizen must:

- (1) Either have attained the age of sixty (60) as determined by the SSA or be disabled according to the definition in Part III, Section 306 of these By-Laws and as determined by the SSA; and
- (2) Not be engaged in any form of employment or self-employment, including employment exempt from contributions for Social Security purposes, as defined in Part II of these By-Laws, and as determined by the SSA.

[41 PNC §§952(a), 711, 712, and 741]

### **Section 1028. Voluntary contributions**

Additional amounts may be contributed to an individual MSA without limitation. All such additional amounts deposited are also exempt from tax on wage and salaries but shall be considered remuneration for Social Security purposes.

[41 PNC §962]

### **Section 1029. Interest on MSA Accounts**

Each individual MSA account shall be credited with interest as follows:

- (a) At the end of each fiscal year, each MSA shall be credited with an annual amount of interest based on the average balance in that MSA during the fiscal

year. The rate of interest shall be established by the Social Security Board prior to the end of the fiscal year and be based on overall performance of investments.

- (b) In case of termination of a MSA during the course of a fiscal year, interest shall be credited to the account for each full quarter based on the most recent rate of interest established by the Social Security Board.

[41 PNC §923(f)]

### **Section 1030. Annual statement**

Within three months after the end of the fiscal year, an annual statement shall be delivered for each MSA account containing the following information:

- (a) The beginning and ending account balances;
- (b) Contributions, interest, and other deposits credited to the account;
- (c) Amounts withdrawn, including date, name of designated beneficiary, amount, and recipient of the payment, for each withdrawal.

### **Section 1031. Designation of Beneficiaries**

Each account holder shall designate beneficiaries entitled to withdraw funds from their MSA by completing the form approved for that purpose. The account holder, his or her spouse, and his or her dependent children shall be designated to withdraw funds from the MSA and the account holder may designate additional beneficiaries entitled to withdraw funds from the MSA.

All designated beneficiaries shall be reported by each employee and self-employed individual to the HF on the approved form no later than December 31, 2010. The designation shall include, at a minimum, the legal name, date of birth, residence, and relationship to the account holder for each beneficiary.

The account holder may change the designation of beneficiaries by reporting the changes in writing to the HF on the approved form. Reported changes shall take effect at the beginning of the next calendar quarter. However, if the reported change is made within

thirty (30) days of the end of a calendar quarter, the change shall not take effect until the beginning of the second calendar quarter after the report is made.

[41 PNC §940]

### **Section 1032. Succession**

Upon the death of an account holder, the money in that account shall first be used to pay any outstanding healthcare debt owed to a healthcare provider by the account holder or other beneficiary of that account for expenses incurred prior to the account holder's death. Second, any amounts due to a healthcare provider incurred after account holder's death directly relating to the cause of his or her death shall be paid from that account.

Any amount remaining from the employee's share shall be transferred to a MSA in the following order of priority:

- (a) The surviving spouse;
- (b) The children, in equal shares; or
- (c) To the parents, in equal shares; or
- (d) To other designated beneficiaries, in equal shares; or
- (e) To the persons entitled under the laws and customs of the last domicile of the deceased.

[41 PNC §943]

### **Section 1033. MSA Balance Paid to Exiting Foreign Employees**

A non-citizen who is permanently exiting Palau may withdraw the remaining balance of his or her MSA after all payments due have been fully paid. If beneficiaries on the account remain in Palau, then the funds may not be withdrawn until all beneficiaries are designated on a different MSA.

The individual exiting Palau shall submit a written request to the Administrator on the form provided for that purpose, together with written evidence that he or she is no longer employed in Palau and is permanently exiting Palau.

In addition, to facilitate electronic transfer of the balance remaining, he or she shall provide his or her bank account details, including name and address of the bank, SWIFT code, and account number.

After the six month waiting period, counting from the day of departure, the remaining balance less the processing fee charged to SSA by the financial institution shall be electronically transferred to the beneficiary's bank account.

The remaining balance may be transmitted by other means upon written request of the individual and in the discretion of the Administrator.

[41 PNC § 941]

*SUBPART C. Sections 1034 through 1049 reserved for future use*

#### SUBPART D. OFFENSES AND PENALTIES

##### **Section 1050. Interest Charged for Failure to Report or Pay**

An employer or self-employed individual who fails to report or pay any amount due to the HF shall be assessed interest on the unpaid amount at the annual rate of twelve percent (12%) beginning at the end of the month following the final filing date or the next business day if the final filing date falls on a weekend or holiday. If the unpaid amount is referred to an attorney for collection, whether or not a complaint is filed in the courts, the employer or self-employed individual shall additionally be liable for HF's reasonable attorneys' fees and costs of collection, including court costs.

[41 PNC §961(c)]

##### **Section 1051. Administrative Fees**

The Administrator may assess a fee to any person for noncompliance with 41 PNC Chapter 9 or these rules and procedures which directly results in an administrative or other cost to the HF. Examples of such administrative fees include, but are not limited to, late fees, filing or reporting fees, auditing fees, and noncompliance fees.

[41 PNC § 711, § 712(d), § 724 & SSA By-Laws]