

STANDING COMMITTEE REPORT NO. 18-266

RE: C.B. NO. 18-171/H&SA

SUBJECT: MICARE: AMENDMENTS TO TITLE 52 F.S.M.C.

JANUARY 28, 2015

The Honorable Dohsis Halbert
Speaker, Eighteenth Congress
Federated States of Micronesia
Sixth Regular Session, 2015

Dear Speaker:

Your Committee on Health and Social Affairs, to which was jointly referred C.B. No. 18- 171 entitled:

"A BILL TO FURTHER AMEND SECTIONS 401,402,403,404, 407, 408, AND 409 OF TITLE 52 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED BY PUBLIC LAWS NOS. 12-77 AND 14-49 AND ADDING A NEW SECTION 411, TO REALIGN THE NAME OF THE PLAN, CLARIFY THE ROLE OF THE ADMINISTRATOR, IMPROVE AND EXPAND THE SERVICES OF MICARE, EXPRESSLY PROVIDE FOR LEGAL COUNSEL AND JURISDICTION OVER CLAIMS, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

Since the introduction of C.B. No. 18-171 your Committee on Health and Social Affairs has had several public hearings regarding this matter, including hearings in all the four States in December 2014 and January 2015. The Committee's investigation into this issue culminated with meetings this session with the Administrator of MiCare. The Department of Justice also provided its analysis of C.B. No. 18-171 in November 2014.

This proposed legislation includes both cosmetic or clean up amendments, and substantial substantive amendments to the current law. The Committee has raised concerns with MiCare and the State and National leadership regarding several of the changes proposed. Below your Committee discusses each

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of the proposed changes, and whether it recommends the change or to adhere to the current law.

Section 401 of Title 52.

First, under section 401 definitions, the Committee recommends the amendments to change the name of the health insurance plan to its current, correct name of MiCare. It also recommends the clarification of the definition of "Dependent" as proposed in the bill. A minor clerical error is noted in the spelling of enrollee's that should be corrected. The Committee supports a more detailed definition in section 401 (9) of "Full-time student". However, the Committee recommends that only dependents attending accredited post-secondary educational institutions on a full-time basis be eligible for coverage under MiCare. It, therefore, does not recommend the following proposed change:

Section 401(9) "~~or other educational institutional~~
~~approved by MiCare."~~

Section 403 of Title 52.

Your Committee is accepting of the minor cosmetic changes in section 403. The only substantive change in this section deals with eligibility requirements and premium rates to be established by MiCare Regulations. Your Committee accepts that this change is desirable, however, it makes the following suggestion for clarity:

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From the currently proposed:

(g) Subject to eligibility requirements and premium rates to be established by Regulations, FSM citizens residing outside FSM."

To the Committee recommended:

(3) All enrollees are subject to the eligibility requirements and premium rates established by MiCare Regulations.

Section 404 of Title 52.

All proposed changes except one are cosmetic in nature in this section. There is, however, one substantive change in section 404(2) which would allow MiCare to make investment decisions in consultation with their our investment consultant rather than, as is currently the law, with consultation with the National Department of Finance and Administration. Your Committee has voiced concerns with this provision for several reasons. First, the Committee believes that as MiCare does not have large investment holdings (currently \$1.4 million), and that the separate consulting fees and charges would likely be equal or greater to any gains the consultant may provide. The Committee was also concerned that greater risk to the investment funds may be incurred by reliance on a separate private investment consultant. And, finally that time in selection and monitoring of the investment consultant detracted from the core activities of MiCare. When the Committee's concerns were raised to MiCare it was agreed with MiCare that this provision not be changed. Your Committee, therefore, recommends the following change in the proposed bill:

From the currently proposed Section 404(2):

.....Such investments shall be low-risk and made in consultation with [the Secretary of the Department of Finance] certified investment consultants.....

The Committee recommends retaining the current law in section 404:

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.....Such investments shall be low-risk and made in consultation with the Secretary of the Department of Finance and Administration ~~[certified investment consultants]~~.....

Section 407 of Title 52

Throughout this section the Committee notes several minor cosmetic changes and approves, again, of the MiCare Administration's request to clarify and update the law. For consistency the Committee notes that the title of section 407 should be revised to MiCare rather National as other references were already changed in the bill as transmitted. There are also several substantive changes to this section, which deals with the Board of Directors and the Administrator.

The legislation as proposed would change the composition of the MiCare Board of Directors under subsection (2) of section 407. The MiCare Administrator reported to the Committee that the primary reason to eliminate the board member from private industry was to get away from the appearance of preference by MiCare for any particular health care professional or clinic. The Committee agrees with this change in this subsection.

Under the subsection (4) of section 407 there is a proposed change to allow MiCare to retain private counsel if there is a conflict of interest, under special circumstances or as the Administrator of MiCare feels is needed. Over the years the Committee has been advised by MiCare that it has unmet legal needs due to the high volume of work at the National Department of Justice. Initially MiCare had suggested that the law be amended to allow it to retain full-time in house counsel. Your Committee had responded that it did not think that the volume of work justified the expense. The Committee believes the current proposed amendment reaches a successful compromise. MiCare stated that its policy would be to use outside counsel sparingly to keep expenses down. Your Committee agrees with this amendment.

In subsection (6) of section 407 the proposed changes would have members of the MiCare Board of Directors serve without compensation, but be entitled to travel expenses and per diem at the FSM National Government rate. The MiCare

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Administrator stated that this was in keeping with the move by National Government and semi-governmental entities to uniformly using the standard per diem rate. Your Committee sees this change as a positive step towards uniformity in the benefits of board service, and agrees with including this amendment.

The subsection (7) of section 407 has several substantive proposed changes in this bill. First, in Section 407(7)(b) the proposed change clarifies once and for all that the Administrator has the authority to negotiate and enter into contracts with the Boards approval. The Committee agrees that this important power needs to be defined.

Further in this subsection section 407(7)(c) makes it an affirmative duty for MiCare to conduct an annual claim audit to identify possible fraud and abuses. The Committee strongly agrees with the inclusion of this amendment in the bill. Your Committee has long been concerned with issues such as double billing and other abuses by the health care providers. The Committee applauds efforts to reduce these problems with its health care providers.

The Committee recommends the proposed changes in the newly proposed subsections section 407(7)(d), (e), (f) and (g). The new section 407(7)(d) states that physicians seeking payment under MiCare must hold the relevant medical licenses in the jurisdiction that health services are provided to MiCare enrollees.

Newly proposed section 407(7)(e) gives MiCare the authority to suspend or terminate service contracts with health care providers based claim audit findings. Again, the Committee strongly recommends the inclusion of this subsection. Many of the complaints that the Committee has received from the public over the years has to do with claims of excessive charges, unnecessary tests and medical procedures. The Committee sees this as a positive step to deter fraud by the health care providers.

The next proposed subsection section 407 (7)(f) mandates that MiCare establish a formula for the medicine and pharmaceuticals used in the FSM. The Committee agrees that there should be a movement to establish well reasoned

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standardized pricing in the pharmaceuticals area, and recommends the inclusion of this subsection. The Committee would, however, like to see the analysis in a report, along with the new formula when it is developed.

There was lengthy discussion with MiCare regarding the proposed subsection section 407 (7)(g). MiCare stated that it had several instances of excessive or inappropriate diagnose or prescriptions by doctors for themselves or family members. Although initially concerned the Committee now agrees with this proposed amendment with the inclusion of the phrase "clear evidence of conflict of interest". Again, the Committee appreciates the efforts of MiCare to adhere to ethical and professional international standards.

Section 409 of Title 52

The bill proposes to add a subsection section 409 (1)(a) which would allow MiCare to deny admission and/or services based on the grounds that the enrollee has a pre-existing medical condition. The Committee sees this as a very challenging issue as many people in the FSM suffer from chronic conditions, such as, heart disease, diabetes, high blood pressure, to name a few. People desire health insurance coverage for these very diseases as they are costly and often need continuous care. Several discussions were held with MiCare during the various public hearings. Your Committee understands very well the need for MiCare to look for ways to hold down its costs, however, the health and financial needs of our citizens outweigh MiCare's on this issue. After a final meeting with MiCare it agreed with the Committee to remove this subsection from the proposed bill.

Also in this subsection the bill proposes to add section 409(2)(e) to allow MiCare to establish its own financial and personnel management rules and regulations. Your Committee does not have any issues with this proposal, and in fact, would like MiCare to take more responsibility for its internal affairs and provide more guidance to its administration.

Section 411 of Title 52

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The Committee approves and recommends the change to have the FSM Supreme Court trial division have original exclusive jurisdiction over any civil action involving MiCare as set forth in the newly proposed Section 411. For uniformity, efficiency and the fact that MiCare is an entity of national scope this proposed change is well reasoned.

Your Committee would like to offer the following amendment to C.B. 18-171 as follows:

1. Page 3, line 4, delete "enrolee's" and add "enrollee's" in lieu thereof.
2. Page 3, line 15 delete "or other educational institutional approved by Micare".
3. Page 5, line 15, delete "Subject to eligibility requirements and premium rates to be established by Regulations, FSM citizens residing outside FSM." And insert "(3) All enrollees are subject to the eligibility requirement and premium rates established by MiCare Regulation". In lieu thereof.
4. Page 6, line 22, delete "certified investment" and insert "The Secretary of the Department of Finance and Administration" in lieu thereof.
5. Page 7, line 7, delete "Health Insurance Plan" and insert "MiCare Insurance Plan" in lieu thereof.
6. Page 14, lines 21-25 remove strike, double add underline.
7. Page 15, lines 1-3, remove strike, double add underline.

As noted above overall your Committee on Health and Social Affairs is supportive of C.B. No. 18-171, with the above-recommended changes. Your Committee on Health and Social Affairs is in accord with the intent and purposes of C.B. No. 18-171, and recommends its adoption in the form attached hereto as C.B. No. 18-171, C.D.1.

Respectfully submitted,

/s/ Tony H. Otto
Tony H. Otto, chairman

/s/ Tiwiter Aritos
Tiwiter Aritos, vice chairman

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/s/ Peter M. Christian
Peter M. Christian, member

/s/ Yosiwo P. George
Yosiwo P. George, member

/s/ Florencio S. Harper
Florencio S. Harper, member

/s/ David W. Panuelo
David W. Panuelo, member

Joseph J. Urusemal, member