THIRD CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FOURTH REGULAR SESSION, 1984 C.B. NO. 3-362

HESA

A BILL FOR AN ACT

To establish the National Health Care Plan of the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

CHAPTER 1

GENERAL PROVISIONS

Section 101. Short title. This act may be cited as the "National Health Care Act of 1984."

Section 102. Purpose. The purpose of this act is to improve the provision and quality of health services to residents of the Federated States of Micronesia and to create a means for collection of mandatory health insurance premiums. This act establishes a means to control the costs, improve the quality, and assure the availability of medically necessary services of health care providers outside of the Federated States of Micronesia. This act also authorizes the establishment of a program to achieve the same goals with respect to health care services furnished within the Federated States of Micronesia.

Section 103. Establishment of Plan. The National Health Care Plan of the Federated States of Micronesia is hereby established as a public corporation under the laws of the Federated States of Micronesia.

Section 104. Definitions. As used in this act:

(1) "Board" means the board of trustees of the National Health Care Plan;

(2) "Bylaws" means the bylaws of the National Health Care Plan in effect from time to time;

(3) "Congress" means the Congress of the Federated States of Micronesia;

(4) "Dependent" means the spouse and children, including

step-children and legally adopted children, who are unmarried and under 18 years of age of an enrollee (as defined in subsection (6));

(5) "Employer" means any person (as defined in subsection (11)) who employs the services of others and pays their wages or salaries and who nets an annual income from such employment of $1,000 or more, or a person who is self-employed who nets an annual income of $1,000 or more;

(6) "Enrollee" means any individual eligible to receive benefits under this act;

(7) "Executive director" means the executive director of the National Health Care Plan;

(8) "Fund" means the trust fund to be established by the board pursuant to section 601;

(9) "National Government" means the Government of the Federated States of Micronesia;

(10) "Off-island health care facility" means any facility providing covered services (as defined in section 404) which is located outside of the Federated States of Micronesia and which is determined by the board to be a qualified provider (as defined in section 406);

(11) "Person" includes any individual, trust, estate, partnership, corporation, association, joint stock company, bank, insurance company, credit union, cooperative, or other entity or group (including any government, whether local or foreign, or any agency or instrumentality thereof);

(12) "Plan" means the National Health Care Plan of the

Federated States of Micronesia;

(13) "President" means the President of the Federated States of Micronesia;

(14) "Provider" means any person furnishing any covered service (as defined in section 404);

(15) "Referral" means a referral of an enrollee to an off-island health care facility granted pursuant to section 402;

(16) "Regulation" means the regulations adopted by the board for the administration of the Plan;

(17) "Resident" means any citizen of the Federated States of Micronesia who claims the Federated States of Micronesia as his residence, or any noncitizen who has established an ongoing physical presence in the Federated States of Micronesia and whose presence is sanctioned by law and is not merely transitory in nature;

(18) "State" means a State of the Federated States of Micronesia; and

(19) "Third-party administrator" means the individual or firm within or outside of the Federated States of Micronesia which contracts to perform administrative services in the operation of the Plan.

CHAPTER 2

BOARD OF TRUSTEES, OFFICERS, CORPORATE POWERS

Section 201. Board of trustees.

(1) The governing and administrative powers of the Plan shall be vested in a board of trustees which shall consist of six voting members and the executive director who shall serve as an

ex-officio, non-voting member of the board.

(2) The President shall appoint the six voting members of the board, with the advice and consent of Congress, and may remove each such member in case of incompetency, neglect of duty, or malfeasance in office. There shall be at least one voting member from each of the four States, and at least one of the voting members shall be an official of the National Government with financial or budgetary responsibility. All board members shall be experienced in health care financing, administration, practices, development, and improvement.

Section 202. Organizational meeting. The first meeting of the board shall be held not later than 45 days after appointments of all six voting members of the board have become effective.

Section 203. Terms of office and reappointment. Of the voting board members initially appointed, two shall serve until January 1, 1986; two shall serve until January 1, 1987; and two shall serve until January 1, 1988, all as designated by the President. Thereafter, each voting member of the board shall hold office for a term of 3 years. A member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term. Each board member shall hold office until his successor is appointed and qualified. Board members shall be eligible for reappointment.

Section 204. Vacancies. Vacancies in the membership of the board shall be filled in the same manner as the original appointment. A vacancy exists in the case of death, resignation, or removal of any

board member.

Section 205. Removal. In addition to the removal of a board member pursuant to the provisions of section 201, any board member may be removed from office by the affirmative vote of four voting board members.

Section 206. Meetings.

(1) Regular meetings of the board shall be held quarterly at such times, at such places, and upon such notice as shall be provided in the bylaws.

(2) Special meetings of the board shall be called by the chairman or by any three board members at such places and upon such notice as shall be provided in the bylaws.

(3) Unless specifically prohibited by the bylaws, members of the board or of any committee of the board may participate in and act at any meeting of the board or a committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

(4) Full and accurate minutes of all board meetings shall be kept in such manner as shall be provided in the bylaws.

Section 207. Quorum. Four voting board members shall constitute a quorum and the action of a majority of the voting board members present at any meeting at which there is a quorum is valid as a corporate act.

Section 208. Deadlock. In the event that the voting members of the board are evenly divided concerning an action or decision of the board, the executive director shall vote on the action or decision.

Section 209. Election of chairman. The board shall elect from among its members a chairman who will convene and preside over meetings of the board. The chairman shall perform such other duties as may be prescribed by the bylaws or from time to time assigned by the board. The chairman shall serve for a term of 1 year and shall not be eligible for consecutive 1-year terms as chairman.

Section 210. Election of vice chairman. The board shall elect from among its members a vice chairman who shall, in the absence of the chairman, perform the duties of the chairman. The vice chairman shall serve for a term of 1 year and shall not be eligible for consecutive 1-year terms as vice chairman.

Section 211. Compensation of board members. Board members who are employees of any State government or of the National Government shall serve without compensation paid by the Plan, but may continue to receive their regular salaries as government employees. Board members who are not employees of any State government or of the National Government shall be entitled to compensation of $30 per day when attending to the business of the Plan. Also, all board members shall be entitled to payment for expenses necessarily incurred when serving the Plan away from their places of residence.

Section 212. Exclusion from employment. No board member (other than the executive director) shall be an employee of the Plan.

Section 213. Bylaws. The board shall adopt, amend, or repeal such bylaws as are necessary to provide for the management of the business of the Plan, the organization, meetings, and procedures of the board, the duties of officers and employees, and the preparation and submission of required reports.

Section 214. Exemption. Officers and employees of the Plan shall be exempt from the provisions of the Public Service System Act and compensation plan of the Government of the Federated States of Micronesia.

Section 215. Officers.

(1) The board shall select an executive director for the Plan who shall serve at the pleasure of the board. The executive director may be an employee of the third-party administrator.

(2) The executive director shall administer the Plan and manage the day-to-day operations of the Plan, in accordance with policies, procedures, rules, regulations, standards, and criteria established by the board. The executive director shall also perform such other duties as may be set forth in this act, the bylaws, or by the board. The executive director shall serve as an ex-officio, non-voting member of the board and as a voting member of each medical referral committee.

(3) The board shall select a secretary-treasurer who shall serve at the pleasure of the board. The secretary-treasurer shall hold office for such term, exercise such authority, and perform such functions in assisting the executive director in the administration of

the Plan as may be determined by the board or as may be set forth in this act or the bylaws. The secretary-treasurer shall act as permanent secretary to the board.

(4) The executive director and secretary-treasurer of the Plan shall each have a minimum of 3 years experience in the health insurance profession or equivalent experience in a related profession.

(5) The executive director may, with approval of the board, delegate to other officers or employees of the Plan, or to the third-party administrator, any of the duties or functions of the executive director.

Section 216. Corporate powers. In addition to any other authority granted under this act, the Plan shall have the capacity to exercise all powers normally exercised by a corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To sue and be sued in its corporate name;

(3) To acquire, in any lawful manner, real, personal, or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease, or otherwise dispose of such property;

(4) To take and otherwise acquire and hold shares, stocks, mortgages, bonds, obligations, securities, and investments of all kinds, foreign and domestic, and to sell or otherwise alienate the same;

(5) To acquire and take over in any lawful manner the

business, property, goodwill, and liabilities of any entity, including debts, liabilities, and obligations incurred prior to the time of acquisition;

(6) To make contracts and incur liabilities, and to borrow or raise any sum or sums of money and issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of the Plan;

(7) To lend money for its corporate purposes, and to invest or reinvest its funds;

(8) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as it may deem appropriate;

(9) To conduct its business, carry on its operations, have offices, and to exercise the powers granted herein in any State or territory of the Federated States of Micronesia or in any foreign country; and

(10) To do all such other things as may be deemed incidental or conducive to the fulfillment of the responsibilities of the Plan.

Section 217. Regulations. The board shall adopt, amend, or repeal regulations for the administration of the Plan pursuant to the procedures for adoption of regulations as set out in chapter 1 of title 17 of the Code of the Federated States of Micronesia. Such regulations shall determine, among other things, premium amounts, professional service standards, and standards and procedures for referrals, collections, disbursements, and appeals from determinations made in the

implementation of the Plan.

CHAPTER 3

ELIGIBILITY FOR BENEFITS

Section 301. Basic eligibility. Every resident of the Federated States of Micronesia shall be eligible to receive benefits under this act, except that an employee of a diplomatic or military agency or instrumentality of a foreign government is eligible only in accordance with an agreement under section 302.

Section 302. Agreements for eligibility of others. The board, with approval of Congress, is authorized to enter into agreements with foreign governments, international organizations, or other entities to extend the benefits of this act to persons within the Federated States of Micronesia not otherwise eligible therefor. The board, in entering into such agreements, shall be subject to other Federated States of Micronesia laws, regulations, and agreed-upon practices regarding negotiating agreements with foreign governments.

CHAPTER 4

NATURE AND SCOPE OF BENEFITS

Section 401. Payment for services.

(1) The Plan shall pay the benefit amount for any covered service which is furnished to an enrollee outside of the Federated States of Micronesia by a qualified provider if such covered service is authorized in a referral granted under section 402. Covered services are defined in section 404; benefit amounts are defined in section 405; and qualified providers are defined in section 406.

(2) The board may by regulation establish and implement a program for payments of benefit amounts by the Plan for covered services furnished to enrollees within the Federated States of Micronesia by qualified providers, and for assessment and collection of additional premiums. The regulations establishing this program shall provide, at a minimum, that no hospital shall be a qualified provider unless:

(a) It accounts for its revenues and costs on an enterprise-fund accounting basis as prescribed by the National Council on Governmental Accounting, and

(b) It is organizationally autonomous from the government of any State.

(3) The board by regulation shall establish and implement a program for payments of benefit amounts by the Plan for covered services rendered by qualified providers to citizens of the Federated States of Micronesia who are outside of the Federated States of Micronesia either as full-time students in an institution of higher education or as full-time employees of the National Government, and for collection of premiums therefor.

Section 402. Medical referral committees.

(1) Each State shall establish a medical referral committee which shall be composed of, at a minimum, one physician or medical officer who regularly practices in such State and the executive director of the Plan. Each State may appoint to its medical referral committee additional members with such qualifications as it deems

appropriate.

(2) Referrals may be granted by the executive director on the recommendation of a State medical referral committee. A State medical referral committee shall consider as soon as possible each written request for a referral made by an enrollee who resides in such State or by such enrollee's attending physician or medical officer and shall determine whether a referral of the enrollee to an off-island health care facility is necessary or appropriate for the diagnosis or treatment of, or rehabilitation following injury or illness, or for health maintenance. The medical referral committee shall determine in writing:

(a) Whether it recommends a referral;

(b) Where covered services are to be provided;

(c) What covered services are necessary or appropriate for the enrollee to receive at such facility; and

(d) The projected length of stay.

All recommendations by a medical referral committee must be approved by the executive director.

(3) The board shall, in consultation with State and National health directors, by regulation establish standards and procedures for referrals. Such standards and procedures shall assure that all referrals are consistent with the purposes and the objectives of the Plan.

Section 403. Supervision. The board by regulation shall establish policies and procedures to supervise provision of covered

services at off-island health care facilities, including transportation, housing, and all other parts of implementing a referral, so that individual referrals are implemented efficiently and in accordance with the regulations.

Section 404. Covered services. Covered services are:

(1) Professional services of physicians, dentists, and other health practitioners;

(2) Services of health institutions; and

(3) Pharmaceuticals, devices, appliances, and other equipment, which the board by regulation determines are eligible for payment under the Plan.

Section 405. Benefit amounts. Benefit amounts are the amounts which the board by regulation determines are eligible for payment by the Plan for each covered service, including any deductibles, co-insurance payments, waiting periods, maximums, or other requirements or limitations on amounts to be paid.

Section 406. Qualified providers. A qualified provider is a person furnishing any covered service who the board by regulation determines meets the generally accepted standards of its profession in Micronesia. The board may maintain a list of qualified providers.

Section 407. Optional benefits. The board by regulation may provide for and offer to enrollees additional benefits, either in the form of covered services in addition to those defined pursuant to section 404 or higher benefit amounts than those set pursuant to section 405, and shall provide for payment of an additional premium by

or on behalf of enrollees for such benefits.

Section 408. Other coverage. The obligation of the Plan to make payment for benefits under this act is secondary to the obligation of any other individual or entity to make payment for the same service. The board by regulation shall establish policies and procedures for the coordination of benefits provided by this act and any other sources, which policies and procedures shall establish the secondary nature of benefits under this act. Any overpayments of benefits made under this act may be recovered by the Plan from any person to or for whom the payment was made or from any company or organization which is obligated to pay for such services.

Section 409. Claims procedures. The board by regulation shall establish policies and procedures for the identification of enrollees by providers, filing of claims, and disbursement of payments for covered services.

CHAPTER 5

PREMIUMS

Section 501. Premium amounts.

(1) By regulation, the board shall determine the premium amounts to be charged by the Plan. The aggregate of all premium amounts shall be sufficient to pay all costs of benefits under the Plan, administering the Plan, and reasonable reserves for uncollectible debts to the Plan, unexpected demands on the Plan for payments and other purposes. Premium amounts shall be determined without regard to the ability of individual enrollees to pay or to the source of payment

of premium amounts by or on behalf of individual enrollees. A premium amount shall apply to every enrollee.

(2) The board by regulation shall establish two basic premium amounts, one for enrollees who have no dependents and a higher premium amount for enrollees with dependents (regardless of the number of dependents).

(3) By regulation, the board may establish additional classifications of enrollees for which different premium amounts will be determined, based on one or more of the following:

(a) Covered services for which the enrollee is eligible or is likely to use;

(b) Location;

(c) Risk of or exposure to injury or illness; or

(d) Other factors normally considered by the health and hospitalization insurance and health maintenance organization industry in the determination of premiums.

Section 502. Billed amounts.

(1) The board by regulation may establish classifications for the portion of the premium amounts to be billed to an enrollee, employer, or other person. Such classifications shall be based on one or more of the following:

(a) Payments on behalf of the enrollees or employers by a State government, the National Government, the government of the United States of America, or any other source;

(b) Alternative forms of payment including payment in

kind;

(c) Time of payment; and

(d) Any other factor reasonably related to the purposes of this act.

(2) The Plan shall bill the amounts determined under this section.

(3) By regulation, the Plan shall provide that a premium amount shall not be billed more than once for an enrollee.

Section 503. Liability for premium payment.

(1) An employer of an enrollee with respect to whom a premium amount is billed shall be responsible for payment of one-half of such premium amount. The employer may, by written agreement filed with the Plan, assume responsibility to pay more than one-half of the premium amount.

(2) The employer shall collect the balance of the premium by deducting and withholding such amount from the enrollee's compensation with respect to pay periods as specified by the board by regulation. Every employer required to deduct and withhold a premium amount shall be liable for the payment of such amount as well as the employer's share of the premium amount and shall pay such premium amounts to the Plan with reports or returns as specified by the board by regulation.

(3) The board by regulation shall establish policies and procedures to equitably allocate the employer's portion of the premium amount among employers if an enrollee is employed by more than one employer during a premium amount period.

(4) Any person required to pay a premium amount for whom a collection procedure is not otherwise provided in this act or the regulations shall pay such premium amount to the Plan with reports or returns as specified by the board.

Section 504. Supplemental revenues. The Plan shall seek appropriations from State governments, Congress, and to the extent approved by the President, from other sources, in advance for such additional premiums as it is reasonably anticipated will be necessary to compensate for reduced premium amounts billed to enrollees or employers and uncollectible premiums.

Section 505. Premium collection. The board by regulation shall establish and implement procedures to regularly collect premium amounts from enrollees and employers.

Section 506. Sanctions.

(1) The board by regulation shall determine and assess penalties for violations by enrollees or employers of any provisions of this chapter or regulations hereunder. Such penalties may include fines or suspension of an enrollee's privileges under this act; however, no fine assessed pursuant to this section shall exceed $500 per violation. The board by regulation may establish policies and procedures to remit, for good cause shown, all or any part of a penalty.

(2) If any premium amount imposed by this chapter or regulations is not paid on or before the date prescribed for such payment, there shall be collected, in addition to such premium amount

and penalties, interest on the unpaid balance of the premium amount at the rate of 10 percent per annum from its due date until the date it is paid.

Section 507. Remedies.

(1) The board is authorized to take civil action and impose liens, if necessary, to collect overdue premiums.

(2) If any person liable to pay any amount under this act neglects or refuses to pay the same after demand, the amount (including any fine or interest assessed pursuant to section 506, together with any costs that may accrue in addition thereto) shall be a lien in favor of the Plan upon all property and rights to property, whether real or personal, belonging to such person and may be collected by levy upon such property in the same manner as the levy of an execution.

(3) Any amounts imposed or authorized under this act may also be collected by a civil suit brought in the name of the Plan. In such civil suit a written statement of the executive director as to the amount due and the fact that it is unpaid shall be sufficient evidence of such matters unless the contrary is expressly shown.

CHAPTER 6

TRUST FUND

Section 601. Fund. The board shall establish a trust fund which shall be administered exclusively for the purposes of this act. All payments for benefits under this act shall be paid from the fund. The fund shall consist of:

(1) All premiums collected from enrollees and employers;

(2) All money received from a State government, the National Government, or any other source for payment to the fund; and

(3) All fines and interest payments collected pursuant to this act.

Section 602. Management of fund. The secretary-treasurer shall be the custodian of the fund and shall administer the fund in accordance with the directions of the board. All monies in the fund shall be held in trust solely for the purposes of this act. With the approval and under the direction of the board, the secretary-treasurer may, from time to time, invest such monies in the fund as are in excess of the amount deemed necessary for a reasonably future period. The investments shall at all times be so made that all the assets of the fund shall be readily convertible into cash when needed for the purposes of this act.

CHAPTER 7

ADMINISTRATION

Section 701. Consultation requirements. The board shall establish advisory councils or take other appropriate measures to assure that it consults with enrollees and providers on a regular basis and is advised of the impact of its policies and procedures on such individuals.

Section 702. Fiscal and operational integrity. The board shall take all measures necessary to assure the fiscal and operational integrity of the Plan and shall review the Plan no less often than quarterly for such purposes. Reviews shall include utilization

reviews, reviews of financial statements, reviews of premium and benefit schedules, and reviews of operational policies and procedures. In particular, the board shall take all measures necessary to assure that:

(1) Its policies and procedures support the health care objectives of the Federated States of Micronesia;

(2) Payments for benefits do not exceed revenues to the fund; and

(3) Only payments for benefits which the Plan is obligated to provide are made.

Section 703. Third-party administrator. The board may retain the services of third-party administrators or qualified health care or business consultants as it deems necessary for the successful operation of the Plan. The board may contract with the third-party administrator to administer all or any part of the Plan. An employee of the third-party administrator may serve as executive director.

Section 704. Determinations and appeals. Except as otherwise provided in this act or by regulation, determinations of eligibility, covered services, qualified providers, benefit amounts, premium amounts to be billed, and all other matters arising in the implementation of the Plan shall be made by the executive director in accordance with regulations. Appeals from determinations of the executive director or of a medical referral committee may be made to the full board in accordance with procedures specified in regulations.

Section 705. Budget preparation.

(1) The executive director shall prepare in advance of each fiscal year an annual budget for the Plan, taking into consideration anticipated capital and operating expenditures and anticipated revenues. The Plan shall use the same fiscal year as that of the National Government. The budget shall indicate the operating, capital, and maintenance requirements of the Plan that will be met with the anticipated revenues of the Plan, and such essential requirements as cannot be met without increase in revenues or outside financial assistance. The annual budget shall be reviewed and approved by the board.

(2) The estimated administrative costs budgeted for any fiscal year of the Plan shall not exceed an expenditure maximum equal to 15 percent of the Plan's estimated income for such year. For purposes of this section, "administrative costs" include the costs of salaries and wages, maintenance of branch offices, patient and physician care coordination, third-party administrator contractual service fees, office supplies and equipment, as well as actuarial, auditing, legal, computer, financial management, accounting, and similar services. For purposes of this section, "income" includes premiums collected, investment income, fines and interest collected, and funds received from a State government, the National Government, or any other source for payment to the fund. The approval of the board must be obtained for any budgeted administrative cost in excess of the expenditure maximum.

Section 706. Tax-exemption. The Plan shall exist and operate

solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations, or activities. Nothing herein shall be deemed to exempt employees and independent contractors of the Plan from tax liability for income received from the Plan.

Section 707. Corporate debts and obligations. Unless otherwise expressly provided by law, neither the National Government nor any State government shall be liable or responsible for any debts or obligations of the Plan.

Section 708. Records and reporting.

(1) The executive director shall keep accurate records of the Plan's business transactions. Such records shall include, but not be limited to, accounting of all income and expenditures, assets (both tangible and intangible), and liabilities of the Plan. The executive director shall prepare and submit to the board a monthly report, which shall include a monthly financial report. The board, not later than 90 days after the close of each fiscal year, shall submit to the President, the Congress, and the Governor and legislature of each State, a complete report showing the activities of the Plan during the fiscal year, the present financial condition of the Plan, and such other matters as the board shall deem appropriate.

(2) The personal records of the Plan shall be confidential. No officer, employee, or board member of the Plan or the third-party administrator shall disclose any personal records obtained by him in any manner in connection with his service as such officer, employee, or

board member, or otherwise. For purposes of this section, the term "officer, employee, or board member" includes a former officer, employee, or board member. "Personal records" means any records concerning any individual enrollee or employer.

(3) The books of account of the Plan shall be audited by the Public Auditor not less frequently than annually.

CHAPTER 8

EFFECTIVE DATE

Section 801. Effective date. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: November 6, 1984

Introduced by: Raymond Setik