

CHAPTER 2.**MARSHALL ISLANDS HEALTH FUND**

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An Act to transfer responsibility for the administration and oversight of the Health Fund and its programs, as set out under Social Security Health Fund Act 1991, 49 MIRC, Chapter 2, to the Ministry of Health Services; and to repeal the Social Security Health Fund Act 1991, 49 MIRC Chapter 2, in its entirety, and all other subsidiary amendments. [Section numbering style modified to conform to new code format [Rev2003]

Commencement: May 27, 2002
 Source: P.L. 2002-57
 P.L. 2003-96
 P.L. 2004-11

PART 1-PRELIMINARY

§201. Short Title.

(1) This Act may be cited as the Marshall Islands Health Fund Act of 2002. [P.L. 2002-57, §1.]

§202. Interpretation.

(1) In this Act unless the context otherwise requires:

(a) “Actuary” means a member in good standing of any society, institute or organization of qualified actuaries recognized by the International Actuarial Association.

(b) “Approved off-island medical referral” means the referral of a covered person to an off-island health care facility, by the Medical Referral Committee pursuant to section 223 of this Act.

(c) “Basic health benefits Plan” means the plan provided for in section 223 of this Act, to provide, pay, arrange for, or to reimburse all or a determined portion of the cost of basic health care. The basic health benefits plan shall not provide approved off-island medical referral for an excluded medical condition.

(d) “Basic health care” means any health care that:

(i) the Board determines is eligible for benefits under Section 223 of this Act; and

(ii) is obtained at a local health care facility or as an approved off-island medical referral, or as an emergency off-island medical care.

(e) “Board ” means the Health Services Board established under section 205 of this Act.

(f) “Capitalization fee” means a stipulated fee that a provider of health services is paid per covered person for whom such provider is contracted to provide services during a defined period of time.

(g) “Contributions” means those amounts of money paid into the Health Fund by workers, employers and self-employed workers pursuant to Sections 216 and 217 of this Act.

(h) ”Covered earnings” means the worker’s or self employed worker’s gross earnings during any quarter subject to a maximum of five thousand dollars (US\$5,000) and is that amount of earnings upon which workers, employers and self-employed workers make contributions to the Health Fund pursuant to Sections 216 and 217 of this Act. The five thousand dollars (US\$5,000) shall be increased at a time as may be determined by the Board as appropriate.

(i) “Covered person” means:

(i) any citizen of the Republic of the Marshall Islands who is resident in the Republic;

(ii) any citizen of the Republic who, although not a resident in the Republic,

is domiciled in the Republic and elects coverage under this Act before applying for benefits under this Act; or

(iii) any non-citizen of the Republic who has been resident in the Republic for at least one year immediately before applying for the benefits under this Act.

Provided however, that “covered persons” does not include persons who are exempt from coverage pursuant to Section 204 of this Act. Citizens of the Republic and legal residents of the Republic who are not otherwise eligible for coverage under this Act may become covered persons upon payment into the Health Fund of the premiums provided for in Section 220 of this Act.

(j) “Custodian” means any person, firm or corporation who is qualified and has assumed the responsibility for the possession of any or all of the Health Fund’s assets pursuant to Section 214 of this Act;

(k) “Earnings” means compensation of any kind including without limitation any salary, wage, bonus, tip, stipend, allowance or fee, paid by the employer to or on behalf of the worker in cash or in any other form, but not including:

(i) payments made by the employer as a result of an accident or sickness of the worker (other than sick leave);

(ii) reimbursement of medical or hospitalization expenses;

(iii) payments made to or on behalf of the worker or his beneficiary from a trust or annuity; and

(iv) payments made in cash, or any form other than cash, for casual labor not exceeding one week in any month of a quarter, if the work is not performed in the course of the employer’s trade or business. For purposes of this Act, earnings shall be computed to the nearest cent.

(l) “Emergency Off-island medical care” means medical care which is obtained by a covered person at an off-island health care facility without the prior approval of the Medical Referral Committee, and which is the result of an emergency which occurs while the covered person is traveling outside of the Republic for a period not exceeding thirty (30) days; provided, however, that emergency off-island medical care shall not include an excluded medical condition. The thirty (30) day limitation does not apply to covered persons who are full-time students enrolled at accredited post-secondary educational institutions outside of the Republic, and covered persons who are serving in the Republic’s Foreign Missions.

(m) “Employee” means any natural person who under the common law rule applicable in determining the employer-employee relationship, has entered into or works under a contract with an employer in any capacity excluding that of an independent contractor whether the contract is expressed or implied, oral or written, requiring the personal execution of any work or labor and includes all employees of the Government, Local Governments, any firm, company, partnership, corporation, association, joint venture, religious organization, or other entity, and all elected officials and self employed persons.

(n) “Employer” means any natural person, self-employed person, the Government, Local Governments, any firm, company, partnership, corporation, association, joint venture, religious organization, or other entity that employs or on whose behalf are employed any employees.

(o) “Excluded medical condition” means any medical condition, treatment of a medical condition, or other health services that the Board determines shall not be eligible for some or all of the benefits under this Act. For the purposes of approved off-island medical referrals, emergency off-

island medical care, or supplemental medical care, “excluded medical conditions” shall include the following:

- (i) acquired immune deficiency syndrome (AIDS), HIV Infections and related conditions;
- (ii) alcohol and drug dependence services;
- (iii) any cancer cases that only require palliative treatment;
- (iv) any cases with a five year survival rate of less than 50% based on current medical statistics and experiences in the Republic;
- (v) congenital defects or abnormalities, except cases where the medical referral committee determines the patients quality of life and the longevity can be significantly increased by treatment outside the Republic;
- (vi) cosmetic services, except in such cases where the Medical Referral Committee determines that severe emotional and psychological damage can be avoided only by such treatment outside the Republic;
- (vii) corrective appliances and artificial aids such as braces, prosthetic devices, eye glasses and hearing aids that can be obtained and fitted in the Republic;
- (viii) custodial, domiciliary or convalescent care;
- (ix) dental services except for surgical procedures as a result of accidental injury to natural teeth or jaw.
- (x) durable medical equipment;
- (xi) experimental or investigative services;
- (xii) eye infraction for glasses, eye-glasses, eye exercises, contact lenses and/or fittings and refractive surgery to correct vision problems;
- (xiii) diabetic retinopathy;
- (xiv) dialysis for chronic renal failure and all related services, and dialysis likely to exceed, or which exceeds, ten (10) days treatment for acute renal failure;
- (xv) hydrocephalic cases previously referred and treated but with abnormal motor or mental development;
- (xvi) long-term physical therapy and rehabilitative services and physical therapy and rehabilitative services that can be provided in the Republic;
- (xvii) mental retardation and non-corrective mental deficiency;
- (xviii) organ transplants;
- (xix) procedures not generally and customarily available.
- (xx) services not medically necessary, including interrupted pregnancy reversal of sterilization, fertilization by artificial means, and services related to sex transformations or sexual dysfunction or inadequacies;
- (xxi) temporomandibular joint disorders and related diseases;
- (xxii) any cases where the patient has repeatedly refused to comply with tests or treatment reasonably prescribed by a local health care facility for the condition for which the referral is sought.
- (xxiii) any condition that the Medical Referral Committee designates as an excluded medical condition.

Provided, however, that the excluded conditions do not apply to the Head of State.

(p) “Fee Schedule” means a list showing the services provided by a local health care facility

or an of-island health care facility and the fees charged for each service.

(q) “Fiscal Year” means the twelve (12) calendar months beginning October 1st each year and ending September 30th the following year.

(r) “Government” means the Government of the Republic of the Marshall Islands.

(s) “Government subsidy” means any payments made directly to the Health Fund by the Government pursuant to Section 221 of this Act.

(t) “Health Fund” means, the Health Fund established under Section 209 of this Act.

(u) “Local Health Care facility” means any facility which;

(i) is located within the Republic;

(ii) is approved by the Board for the provision of basic health care under this Act; and

(iii) is certified and licensed by the Government.

(v) “Medical Referral Committee” means the Committee established by Health Services Board pursuant to Section 208 of this Act.

(w) “Minister” means the Minister responsible for Health Services.

(x) “Ministry” means the Ministry of Health Services.

(y) “Off-island health care facility” means, any facility which:

(i) is located outside of the Republic;

(ii) is approved by the Board for the provision of medical care; and

(iii) is licensed and certified by the proper governmental authority;

(z) “Premiums” means periodic payments that may be made to the Health Fund to purchase some or all of the benefits under this Act for a person who would otherwise be ineligible for those benefits; which premiums are provided in Sections 220 and 229 of this Act.

(aa) “Pre-paid health maintenance agreement” means an agreement whereby the Health Fund would periodically pay an aggregate amount or a capitation fee to a local or off-island health care facility for the provision of health services for a defined period for all covered persons included in the agreement.

(bb) “Quarter” means, any three-calendar-month period ending on March 31st, June 30th, September 30th and December 31st of any calendar year.

(cc) “Republic” means the Republic of the Marshall Islands.

(dd) “Resident” means any person who has established and maintains a place of abode in the Republic.

(ee) “Secretary” means the Secretary for the ministry responsible for health services.

(ff) “Section 177 Health Care Program” means the health care program established under Article II, Section 1(a) of the Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association.

(gg) “Self-employed worker” means a person who engages in any trade or business and is deemed to have earned twice the amount of earnings paid to the highest paid worker reported by him within a quarter, or, if there is no other worker he shall be deemed to have earned within each of the calendar quarters seventy-five per cent (75%) of his gross revenues for that calendar quarter. A self-employed person shall be deemed to be both his own employer and employee and, accordingly, is required to pay the Health Fund for himself both the worker and employer contributions pursuant to sections 216 and 217 of this Act.

(hh) “Supplemental health benefit plan” means the plan provide for in Section 224

of this Act.

(ii) “Supplemental health care” means any health care that:

- (i) is approved by the Board as eligible for benefits under Section 224 of this Act; and
- (ii) is obtained at an off-island health care facility as other than an approved off-island medical referral or as emergency off-island medical care.

(jj) “Third Party Administrator” means an individual or firm, within or outside the Republic, who is qualified and has been engaged by the Board to perform administrative services for the operation of the Health Fund.

(kk) “Worker” means an employee or a self-employed worker who is a resident of the Republic, or if a citizen of the Republic but not a resident of the Republic is domiciled in the Republic and elects coverage under this Act; provided, however, that all persons who are exempt from coverage pursuant to Section 204 of this Act are not workers within the meaning of this Subsection. A worker is required to contribute to the Health Fund pursuant to Section 216 of this Act. [P.L. 2002-57, §2.]

§203. Transfer of the Health Fund.

(1) Responsibility for the administration and oversight of the Social Security Health Fund and all its programs, as set out under the Social Security Health Fund Act 1991 (49 MIRC Chapter 2), is hereby transferred to the ministry responsible for health services, to be administered by the Health Services Board.

(2) Pursuant to Sub-section (1) above, all current assets and liabilities of the Health Fund and its programs are hereby transferred to and placed under the management of the Health Services Board. [P.L. 2002-57, §3.]

§204. Exclusion from Coverage under this Chapter.

This Act does not apply to “United States Personnel” who are exempt from taxes imposed by the Republic pursuant to the Compact of Free Association and its subsidiary agreements; nor does this Act to any other persons exempt from taxes imposed under any other laws of the Republic. [P.L. 2002-57, §4.]

PART II- THE HEALTH SERVICES BOARD

§205. Establishment of the Health Services Board.

There is hereby established, within the Ministry of Health and Environment, a body to be known as the Health Services Board, and shall consist of:

- (a) the Secretary of Health and Environment, who shall also serve as Chairman of the Board;
- (b) the Assistant Secretary for Administration and Finance;
- (c) the Health Planner;
- (d) Assistant Secretary for Primary Health Care;
- (e) the Assistant Secretary for Kwajalein Atoll Health Care center;
- (f) Manager Health Care Revenue Fund;
- (g) the Medical Superintendent.

[P.L. 2002-57, §5.]

§206. Duties and Responsibilities of the Board.

(1) It shall be the duty of the Board under this Act to maintain and to operate for the people of the Republic, a financially sound Health Fund to provide for alternative health benefit programs and plans, as a means to finance and deliver comprehensive medical care to the people of the Marshall Islands.

(2) To further its responsibility under Sub-section (1) above, the Board shall set up a system, or utilize an existing government system to collect and record all quarterly contributions due from employers and employees pursuant to Sections 216 and 217 of this Act. [P.L. 2002-57, §6.]

§207. Powers of the Board.

(1) Subject to this Act and any other law, the Board shall have, in addition to any other powers conferred by this Act and any other law, all powers that are necessary and convenient for carrying out its functions under this Act.

(2) Without limiting the generality of Subsection (1) of this Section, but and subject to any other law, the Board, shall have with respect to its functions under this Act, the following powers:

(a) to transact all business and enter into contracts and other instruments;

(b) to authorize the expenditure and investment of funds;

(c) to accept any gifts, grants or bequest of any money or property of any kind for the purposes designated by the grantor;

(d) To employ on contractual basis, accountants, actuaries, attorneys, and such other professional advisors as the Board may deem necessary to assist the Board in the administration of the Health Fund and its programs. This authority however does not extend to the hiring of permanent staff of the Fund. In the case of permanent staff of the Fund, the Public Service Commission shall be the employing authority;

(e) To examine and copy all books, accounts and records of all employers for the purposes of ascertaining their liability under this Act;

(f) To obtain information from employers as is necessary for the administration of the Health Fund under this Act;

(g) To maintain a bank overdraft account and other accounts as are necessary for the normal operation of the Health Fund;

(h) To collect and record quarterly contributions due from employers and workers and to bring suit, either criminal or civil, against any employer or worker that fails to comply with the provisions of this Act;

(i) To issue subpoenas and to administer Oaths as necessary and appropriate for the administration of this Act.

(j) To engage and retain a Third Party Administrator to assist with the operation of the Health Fund regarding recommended referrals and serve as liaison with approved off-island health care providers. Third Party administrators shall demonstrate the ability to provide claims processing and payment, utilization, review quality assurance management reports and a preferred provider network. Further, Third Party Administrators shall be subject to external audit and have contracted with or employed licensed physicians and registered nurses to assist in the administration of the Health Fund and all its programs.

(k) Upon reference by the Medical Referral Committee of medical cases, to approve medical referrals for off-island health care treatment.

(1) To determine and make the medical referral policies, rules and regulations, consistent with the provisions of this Act, in order to allow the Medical Referral Committee to carry out its duties under this Act. [P.L. 2002-57, §7.] [subsection (2) (d) amended by P.L. 2003-96]

§208. Medical Referral Committee.

(1) In order to assist with the administration of the Basic Health Fund and all its programs, the Board, in conjunction with the Minister shall establish the Medical Referral Committee comprising of 3 members, whose terms shall be for 4 years.

(2) Membership of the Committee shall be nominated by the Board from the pool of physicians currently employed by the Majuro Hospital and the Section 177 Program, and approved by the Minister.

(3) The Medical Referral Committee shall be responsible for referring to the Board those cases that the Committee determines should be sent to an off-island health care facility for treatment. Whenever the Board engages and retains a health professional as a Third Party Administrator, the Committee, in reviewing medical referral cases for approval, will when practicable (that is, in non-emergency cases), consult with the Board to ensure that the referral is in compliance with this Act and the rules and regulations promulgated pursuant to this Act. Medical referrals approved by the Committee are eligible for the benefits of the basic health benefits plan.

(4) The decision of the Medical Referral Committee on any case presented before it shall be final. [P.L. 2002-57, §8.]

PART III - FINANCIAL MATTERS

§209. The Health Fund.

(1) The Health Fund is hereby established.

(2) The Health Fund is a fund other than the Marshall Islands General Fund as anticipated under Article VIII Section 3(2) of the Constitution. [P.L. 2002-57, §9.]

§210. Payments into the Health Fund.

(1) There shall be paid into the Health Fund the following:

- (a) all monies appropriated by the Nitijela for purposes of the Health Fund;
- (b) all quarterly contributions from employers and employees;
- (c) premiums for health benefit plans associated with the Health Fund;
- (d) penalties and interests as calculated under this Act or as ordered by the courts of the Republic;
- (e) proceeds from the investment of the Fund;
- (f) grants, bequests, devises contributions and gifts.

(2) Separate accounts shall be kept within the health fund in respect of:

- (a) each particular purpose for which the money is appropriated or contributed;
- (b) purposes and functions of the Administration under this Act. [P.L. 2002-57, §10.]

§211. Payments out of the Health Fund.

Payments may be made out of the Health Fund only for the purposes of this Act , and in the following manner:

(1) The Health Fund shall transfer to the Health Care Revenue Fund, for the purposes of the Health Care Revenue Fund, on a quarterly basis, a sum equal to forty-five per cent (45%) of the total quarterly contributions collected under Part IV of this Act.

(2) The remaining fifty-five per cent (55%) shall be utilized as follows:

(a) sum equal to ten percent (10%) of the remaining fifty-five per cent (55%) shall be transferred to the Ministry of Health Services on a quarterly basis, to support domestic medical referrals. "Domestic medical Referrals" as used herein, refers to the evacuation of patients from other parts of the Republic, for medical treatment at the Majuro or Ebeye hospitals.

(b) the remainder of the Fund shall be utilized for:

(i) the payment of benefits;

(ii) the repayment of any legitimate loans;

(iii) the costs and expenses of the administration of the Fund under this Act;

and

(iv) for improving primary health care.

(3) No money shall be withdrawn from the health fund except pursuant to:

(a) budgets and procedures approved by the Board;

(b) the Authority of the Board who shall satisfy itself that a withdrawal is made in accordance with the provisions of this Act and any other applicable law.

(4) Except with the approval of the Nitijela, the budget for the costs for the administration of this Act for any fiscal year shall not exceed 10% of the estimated income from contributions, premiums, government subsidies, penalties, interests, dividends and any other income from the investment of the health fund for that fiscal year.

(5) For purposes of Article VIII Section 5(1) of the Constitution, the Board is hereby authorized to expend money out of the Health Fund. The Board may delegate such authority to the Chairman of the Board in order to ensure the efficient administration of this Act.

(6) The Board shall, adopt rules regarding the payment of funds to health care providers, determine the rates of payment due to all health care providers and pay such amounts in accordance with this Act or any other law. [P.L. 2002-57, §11.][Amended by P.L. 2004-11][Subsections (1) and (2) amended by P.L. 2005-45, also repealed §211A].

§212. Accounts and Records.

(1) The Board shall maintain accounts and records in accordance with generally accepted accounting principles for similar entities, as such principles are defined and occasionally modified by the Governmental Accounting Standards Board. The Board shall maintain accounts and records of:

(a) payments into the Health Fund;

(b) payments of money out of the Health Fund; and

(c) the property and financial transactions of the Health Fund under this Act.

(2) The accounts and records maintained under Subsection (1) of this Section shall be subject to audit by the Auditor-General as provided for under Article VIII, Section 15 of the Constitution.

(3) The Board shall as soon as practicable after the close of the fiscal year, submit the financial reports of the Health Fund and the Auditors report to the Board for presentation to the

Cabinet and the Nitijela. Said accounts and records shall be made available to the public for inspection. [P.L. 2002-57, §12.]

§213. Bank Accounts.

(1) With respect to the Health Fund, the Board shall open and maintain as few bank accounts as are necessary for the efficient operation of the Board's activities under this Act.

(2) Subject to Section 214, any money, other petty cash, withdrawn from the Health Fund and not immediately required shall be kept in an account opened under Subsection (1) of this Section. [P.L. 2002-57, §13.]

§214. Investments.

(1) The Fund.

(a) The reserves of the Fund in excess of the requirements for the current operations shall be invested by the Board in accordance with sound investment policies.

(b) The Board shall have the full power to manage the investment, including but not limited to the power to hold, sell, purchase, convey, assign, transfer, dispose of, lease subdivide or partition any asset; to execute documents, enter into contracts on behalf of the Government, and all other things appropriate to its position as an owner or creditor.

(c) All proceeds from the investments shall be credited to the Health Fund. Transactions in marketable securities shall be carried out at the prevailing market prices.

(d) The Board may co-mingle securities and monies subject to the crediting of receipts and earnings and charging of payments to the appropriate accounts established under this Act.

(e) No member of the Board or employee of the Health Fund nor anyone in the immediate family shall have any direct or indirect interest in the gains or outcome of the investments nor shall receive by way of emoluments for services in connection with any investment.

(f) No member of the Board, employee of the Fund or any person in the immediate family of such person shall become the endorser or surety or in any manner an obligator of investments by the Board, nor shall any such person be liable for actions taken in good faith in the performance of duties under this Act.

(g) Investments may be held as physical securities in either bearer form or registered in the name of the Board or the nominee of the custodian. Non-physical securities may be held on book entry at a depository institution selected by the custodian or at one of the twelve (12) US Federal Reserve Banks.

(h) Due Bills may be accepted from brokers against payments for securities purchased, pending delivery within a reasonable period of time certificates representing such investment.

(2) Fund Custodian.

(a) The Board shall engage one or more fund custodians to assume responsibility for the physical possession of the Fund's assets or evidence of asset. The terms of engagement shall require the fund custodian to submit such reports, accountings and other record and information as requested by the Board, take custody of all asset on behalf of the Board, and act only upon instructions of the Board.

- (b) No fund custodian shall be engaged unless it:
 - (i) is a Bank or Trust Company regulated by the US Federal Reserve Board or the US Comptroller of currency as is appropriate;
 - (ii) has a net worth in excess of ten million (\$10,000,000)
 - (iii) has capacity to clear securities through the US Depository Trust Company identification system;
 - (iv) has at least 10 years experience as custodian of financial assets;
 - (v) has at least one billion (\$1,000,000,000) in custodial assets;
- (c) The contract between the Board and the custodian may be terminated at any time with a 30-day notice period.
- (d) The cost of services under this part shall be borne by the Fund.

(3) Investment Manager.

- (a) The Board shall engage one or more investment managers or advisors to assume responsibility for the purchase and sale decisions of all assets of the Fund.
- (b) No person, firm or corporation shall be engaged as investment advisor or manager unless:
 - (i) The person, firm or corporation is a registered investment advisor with the US Securities and Exchange Commission in accordance with US laws;
 - (ii) The principal business of the person, firm or corporation must be investment services;
 - (iii) The person, firm or corporation must have been in business at least 10 years;
 - (iv) The person, firm or corporation certifies in writing that assets under his investment supervision exceed two hundred million dollars (\$200,000,000)
- (c) The Board, in consultation with the Investment Consultant may from time to time change arrangement with investment advisors in order to ensure the maximum returns on the investments;
- (d) The contract engaging the investment advisor shall be terminated at any time with a thirty (30) day notice period;
- (e) All costs under this part shall be paid by the Fund.

(4) The Investment Consultant.

- (a) The Board shall engage one or more investment consultants to assist the Board in all areas of investment of the fund, including but not limited to the screening, reviewing the performances of the fund and fund managers, providing quarterly reports on the performance of the funds and fund managers, provide one annual report to the Board on the overall performance of the investments;
- (b) The Board may from time to time change operation arrangement with the investment consultant and the engagement contract shall be terminated at any time with a thirty (30) day notice period.
- (c) All costs incurred for operations in this part shall be borne by the Fund;

(5) Authorized Investments.

(a) Authorized investment of the fund may be made in obligations issued or guaranteed as to the principal by the Republic or by the US provided that the total market value of the investment in obligations guaranteed by the Republic shall at the time of purchase not exceed 25% of the total investments of the Fund and further that principle and interest on each obligation are payable in US currency.

(b) Obligations of any public or private entity created under the laws of the Republic or of the US payable in US currency or pass-through and other mortgage backed securities, provided that:

(i) the obligation is of an agency or of the US government;

(ii) the obligation is rated in one of the four highest categories by two rating agencies nationally recognized in the US;

(iii) No investment under this heading exceeds 5% of the market value of the Fund or 10% of the outstanding value of the issue at the time of purchase.

(c) Shares of any preferred common stocks of any corporation created or existing under the laws of the Republic or the US, provided that:

(i) the purchase of shares shall be considered reasonable and prudent by the investment advisor;

(ii) Not more than 15% of the market value of the Fund would be invested in any stock of any one corporation;

(iii) not more than 25% of the market value of the Fund would be invested in any one industry group.

(d) Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in the US, in any territory of the US, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities therein or of real or personal property or interest therein;

(e) Interest in improved or productive real property in which in the opinion of the Board, it is prudent to invest therein provided that the total market value of these investment at no time shall exceed 25% of the total market value of all investments of the Fund. For the purposes of this Subsection "real property" includes any property treated as real property by law. The investment in improved or productive real property may be made directly or through pooled funds invested on behalf of the Board by the investment advisors.

(f) Other obligations in which, in the opinion of the Board is prudent to invest, whether or not the securities or stock are expressly authorized by or qualified under the foregoing paragraphs provided that the total market value of the investments under this paragraph shall at no time exceed 10% of the total market value of all investments of the Fund.

(g) Investments may be made in obligations issued or guaranteed as to the principle and interest by the Government of the Republic of Marshall Islands or by the Government of the United States of America; provided:

(i) the total market value of investment in obligations guaranteed by the

government of the Republic shall not exceed at the time of purchase 25% of the total market value of all investments of the health fund.

(ii) the principle and interest on each obligation are payable in the currency of the United States.

(iii) the obligations have a maturity of less than a year and are readily convertible into cash when needed for the purposes of this Act; and

(iv) obligations of any private or public entity created or existing under the laws of the Republic of the Marshall Islands or of the United States or obligations of any other government or economic community which are payable in US Dollars.

(h) The obligation is of an agency of the Government of the United States or the obligation is rated in one or two of categories by two nationally recognized rating agencies in the United States.

(i) The obligation has a maturity of less than one year and readily convertible into cash when needed for the purposes of this Act; and

(j) No investment under this heading exceeds ten per cent (10%) of the outstanding value of the issue at the time of purchase.

[P.L. 2002-57, §14.]

§215. Actuary.

(1) The Board shall as it deems appropriate and necessary and on such terms and conditions the Board may deem fit, engage an Actuary to examine and advise the Board.

(2) Each year the Actuary shall prepare and submit to the Board an actuarial report which shall review and make recommendations on the operation and actuarial soundness of the Health Fund, and which shall determine and certify the amount of reserves the Health Fund should maintain.

(3) The Board shall submit the actuarial report to the Cabinet for presentation to the Nitijela along with any recommended changes in this Act. [P.L. 2002-57, §15.]

PART IV - REVENUES

§216. Workers Contributions.

(1) Subject to Section 221(5), a worker shall contribute to the Health Fund an amount equal to three and one half per cent of such workers covered earnings.

(2) The worker's contributions to the Fund shall be collected by the employer of the worker by deducting the amount due from the worker's earnings and remitting such amount, together with the employer's contribution, to the Health Fund prior to the end of the quarter.

(3) Every employer who is required to deduct a worker's contribution is liable for payment of that contribution to the Health Fund. [P.L. 2002-57, §16.]

§217. Employer's Contributions.

(1) Subject to Section 221(5) of this Act, every employer shall contribute to the Health Fund an amount equal to three and one half per cent out of the employer's covered earnings. [P.L. 2002-57, §17.]

§218. Reports and payments of contributions.

No later than the 10th day after each quarter, every employer, including every self-employed workers:

(a) shall submit to the Board a report of the wages and salaries paid by him and the contributions due under Sections 216 and 217 above; and

(b) shall pay into the Health Fund the contributions due.

[P.L. 2002-57, §18.]

§219. Refunds.

(1) If a worker or self-employed worker contributes on earnings in excess of the worker's covered earnings whether from one or more employers, and his contributions are withheld and paid into the Health Fund the excess of the worker's contribution during the four (4) quarters ending December 31st shall be refunded to the worker.

(2) No refund shall be made to the worker in an amount less than five dollars (US \$5.00).

(3) No refund shall be granted to the employer referred to in Subsection (1) of this Section in respect of the contributions paid by such employers on account of wages paid by them to the workers, other than to correct an error. [P.L. 2002-57, §19.]

§220. Premiums.

(1) Upon authorization by the Board, citizens of the Republic and legal residents of the Republic, or classes thereof, who otherwise are not eligible for some or all of the benefits under this Act may voluntarily pay a periodic premium to the Health Fund and thereby become covered persons eligible for designated benefits.

(2) The Board, shall determine the amount of periodic premiums that must be paid into the Health Fund to be eligible for benefits under this Act. The premiums so determined shall be sufficient to maintain the Health Fund on an actuarially sound basis and shall be paid into the Health Fund in advance of the right to receive those benefits. The Board shall prescribe the procedures for paying the premium into the Health Fund.

(3) The Board may determine as many classes of premiums as it deems is reasonably necessary for the proper operation of the Health Fund. As a minimum, the Board shall determine the premiums for the supplemental health benefits plan and the temporary health insurance plan. [P.L. 2002-57, §20.]

§221. Government Subsidy.

(1) The Board shall determine the government subsidy necessary to continue operating the Health Fund on an actuarially sound basis and shall submit the request, along with an actuarial certification and recommendation on the required subsidy, to Cabinet for consideration.

(2) The Ministry of Finance shall remit the government subsidy appropriated to the Health Fund each fiscal year in four (4) equal quarterly instalments. Each quarterly instalment shall be paid to the Health Fund within ten days of the first day of the quarter or as soon thereafter as is practicable.

(3) In the event that the government subsidy set forth in Subsection (1) of this Section is insufficient to maintain the Health Fund on an actuarially sound basis, the Board shall prepare and submit to Cabinet a request for supplemental appropriation. The request shall be submitted with an

actuarial certification and recommendation supporting the need for the supplemental appropriation.

(4) In the event that the Nitijela does not appropriate sufficient money to maintain the Health Fund on an actuarially sound basis, the Board shall take whatever action necessary so that the Health Fund remains actuarially sound.

(5) In the event that the government subsidy is greater than that required under Subsections (2), (3) and (4) of this Section, then the Cabinet may reduce the contributions required under sections 216 and 217 of this Act by the amount of such additional payments.

(6) The Board shall spend annually for basic health care at local health care facilities the full amount of the subsidy it receives from government. If the money is designated for a specific purpose, it must be used for that purpose. If the local health care facility does not spend all the money provided to it for that year, the amount of the surplus will be deducted from the money it will receive for the next year, or refunded to the Health Fund.

(7) If money from the General fund is appropriated for health care services to entities other than the Health Fund, including the Ministry of Health and Environment, then those entities are responsible for funding basic health care at local health care facilities; provided, however, that if funds so appropriated together with the existing funds in the Health Care Revenue Fund are insufficient for funding such basic health care at local health care facilities, including without limitation the purchase of drugs and medical and dental supplies, then the Board may transfer funds from the Health Fund to fund such care. [P.L. 2002-57, §21.]

§222. Employer account number and worker account number.

(1) The Board shall use the same identification account numbers for employers and workers as are assigned under 49 MIRC, Chapter 1, Section 133 until such time as an independent system has been developed.

(2) The Board shall also maintain permanent registers of employer's and worker's account numbers with necessary particulars. [P.L. 2002-57, §22.]

PART V - BENEFITS

§223. Basic Health Benefits plan.

(1) The Board shall establish the Basic Health Benefits plan effective immediately to provide, pay for, or reimburse all or a determined portion of the basic health care, including:

- (a) primary care;
- (b) specialist and consultant care;
- (c) diagnostic x-ray and laboratory tests;
- (d) maternity care;
- (e) child care, including immunization;
- (f) family planning services;
- (g) annual physical examination;
- (h) hospital care;
- (i) in-patient physician and patients care;

- (j) blood and blood derivatives;
- (k) short term physical therapy;
- (l) prescription drugs;
- (m) prosthetic appliances;
- (n) vision care;
- (o) dental care; and
- (p) medical and dental equipment;

Provided, however, that the basic health benefits plan shall not include off-island referral for an excluded medical condition, or a medical condition that the Medical Referral Committee determines can be treated in the Republic within a reasonable period of time given the medical condition of the covered person involved.

(2) All covered persons are eligible for the benefits of the Basic Health Benefits plan.

(3) As authorized by the Board, citizens and legal residents of the Republic who are not covered persons for the benefits of the Basic Health benefits plan shall be given the opportunity to voluntarily pay a premium into the Health Fund pursuant to Section 220 of this Act and thereby become covered persons for those benefits.

(4) No payments shall be made from the Health Fund for medical referral conditions that are not approved pursuant to this Act.

(5) Notwithstanding Subsection (4) of this Section, emergency off-island medical care that has not been recommended by the Medical Referral Committee and approved, shall be eligible for the benefits of the Basic Health Benefits plan if:

- (a) the treatment was obtained from an off-island health care facility;
- (b) the treatment was obtained during a stay outside the Republic for a period not in excess of thirty (30) days.

(c) the need for the treatment was an emergency in nature and could not be foreseen; and

(d) the Basic Health Benefits plan shall pay for only 80% of the actual cost or one thousand dollars (US\$1,000), which ever is greater.

(6) Notwithstanding Section 208(3) of this Act, the Board may;

(a) with respect to a medical referral under the Basic Health Benefits Plan, pay from the health fund the cost of up to 20 days of health care services for the diagnostic treatment, or stabilization of medical condition where the Medical Referral Committee could not or has not ascertained that the covered person has an excluded medical condition; provided that if following such 20 day period, conditions require further diagnosis, treatment or stabilization, such medical; referral may be extended and costs may be paid from such Health Fund.

(b) with respect to a medical referral under the basic health benefits plan, pay from the Health Fund all or a negotiated portion of the cost of health care services for complications and pre-existing conditions requiring continued hospitalization and additional services; and

(c) with respect to medical referrals by the Medical Referral Committee for excluded medical conditions, pay from the Health fund the cost of transportation and per diem for the

patient and approved escorts where the cost of medical treatment is paid for by the United States government or charitable institutions. [P.L. 2002-57, §23.]

§224. Supplemental Health Benefits Plan.

(1) The Board shall establish the Supplemental Health Benefits Plan, that shall provide , pay for, arrange for, reimburse all or a determined portion of supplemental; health care, including:

- (a) primary care;
- (b) specialist and consultant care;
- (c) diagnostic x-ray and laboratory tests;
- (d) maternity care;
- (e) child care, including immunization;
- (f) family planning services;
- (g) annual physical examination;
- (h) hospital care;
- (i) in-patients physician and surgeons care;
- (j) blood and blood derivatives;
- (k) short term physical therapy;
- (l) prescription drugs;
- (m) prosthetics;
- (n) vision care; and
- (o) dental care;

Provided, however, that the Supplemental Health benefits plan shall not include treatment for an excluded condition.

(2) As authorized by the Board, all covered persons under the temporary or basic health benefits plan may voluntarily pay a premium into the Health Fund pursuant to Section 220 of this Act and thereby become eligible for designated benefits under the Supplemental health benefits plan. A person must be a covered person under the temporary or Basic Health Benefit plans to join the Supplemental Health Benefit plan.

(3) The Board shall specify qualification standards, enrollment periods and other requirements that it deems necessary to be eligible for designated benefits under the Supplemental Health Benefits plan.

(4) In no event shall the Supplemental Health Benefit Plan pay for or reimburse the cost of a family member or other escort to an off-island health care facility.

(5) In addition to the rules, regulations and conditions of the plan as may be prescribed by the Board, a beneficiary who has incurred a medical bill under the plan shall not be permitted to withdraw from the plan until a minimum subscription period of twelve months from the date of incurring the medical bill. This prohibition applies also in the case where the medical bill is incurred by a dependant. [P.L. 2002-57, §24.]

§225. Subrogation of rights.

(1) The Board shall be subrogated to the rights of any covered persons against third parties,

including without limitation, co-insurers and the Section 177 Health Care program, to the extent that third parties are liable to the covered person for the cost of medical care paid from the Health Fund, and the Board is authorized to sue or compromise the covered person's claim in the name of the covered person to the extent of the money paid out of the Health Fund. There shall be no duplication of benefits payable from the Health Fund and the benefits payable from any other sources and a covered person may not receive benefits with respect to medical care from the Health Fund and all other sources combined that exceed the actual cost of the health care. [P.L. 2002-57, §25.]

§226. Evidence of Eligibility.

(1) The Board may at any time require a covered person to provide evidence of that covered person's eligibility for benefits under this Act.

(2) If the evidence required under Subsection (1) is not produced within the time fixed by the Board, the covered person's eligibility may be suspended by the Board until such time as the required evidence is produced. [P.L. 2002-57, §26.]

§227. Uniform Billing Practices.

(1) Upon the effective date of this Section, each local health care facility shall adopt a uniform fee schedule for the services provided at that facility. The fee schedule shall;

(a) display the fee charged for each health care service provided at the facility;

(b) reflect the fees that are sufficient to recover the full cost of the operation of the local health care facility;

(c) subject to pre-paid health maintenance agreements entered into under this Act, shall apply equally to all persons who use the facility for those services.

(2) Failure to adopt a uniform fee schedule shall disqualify a health care facility from being classified as a local health care facility by the Board. [P.L. 2002-57, §27.]

§228. Pre-Paid Health Maintenance Agreements.

(1) Unless waived by the Board or otherwise prohibited by another Act or international agreement, local health care facilities shall enter into a pre-paid health maintenance agreement with the Health Fund. [P.L. 2002-57, §28.]

§229. Section 177 Health Care Program.

(1) The Section 177 Health Care Program may voluntarily purchase the basic health benefits plan and the Supplemental Health Benefits plan from the Health Fund for all persons eligible to receive health care services from those programs.

(2) The Board may determine the premiums that the Section 177 Health Care Program must pay to the Health Fund for the basic health benefits plan and the Supplemental health benefits plan pursuant to Sections 223 and 224 of this Act. The premiums will credit the Section 177 Health Care Program with the contributions made to the Health Fund under Sections 216 and 217 of this Act by beneficiaries of the Section 177 Health Care Program. [P.L. 2002-57, §29.]

PART VI - OFFENSES AND PENALTIES**§230. Fraud against the Health Fund.**

(1) Any person who obtains money from the Health Fund by false pretenses knowing the pretenses to be false, and with the intent thereby to permanently defraud the Health Fund, shall be guilty of an offense and shall upon conviction be liable to imprisonment for a period of not more than five (5) years or a fine of not more than ten thousand dollars (US\$10,000), or both. [P.L. 2002-57, §30.]

§231. False statements and reports.

Any person who knowingly makes a false statement or declaration, or falsifies any report to, or record of, the Board in an attempt to defraud the Board, is guilty of an offense and shall upon conviction be liable for imprisonment for a period of not more than one year or a fine of not more than two thousand dollars (US\$2,000). [P.L. 2002-57, §31.]

§232. Liability for the Failure to Report or to remit the quarterly contributions.

(1) Any employer who fails to report any amount of earnings paid or fails to pay any amount of contributions due to the Health Fund is, at the direction of the Board, liable for a penalty of not more than one hundred per cent (100%) of the total amount of contributions withheld, including worker's and employer's shares, or two hundred and fifty dollars (US\$250), whichever is greater.

(2) Any employer who knowingly fails to report any amount of earnings paid or knowingly fails to pay any amount of contributions due, including penalties and interests to the Health Fund is, in addition, guilty of an offense and shall upon conviction be liable for a fine of not more than five thousand dollars (US\$5,000).

(3) Notwithstanding the provisions of this or any other Act to the contrary, a worker who is aggrieved by the failure of his or her employer to report or pay his or her quarterly contributions to the Health Fund may take necessary action, including court proceedings, to recover the sum of unpaid contributions including interests and penalties on such sum. Any such sums recovered in an action by an aggrieved worker shall be remitted to the Board, to be credited towards such worker's quarterly contributions to the Health Fund. [P.L. 2002-57, §32.]

§233. Confidentiality.

(1) If a member of the Board or any employee of the Health Fund provides information concerning a worker, employer or covered person under this Act, that has come to his knowledge by virtue of his office or employment, to anyone other than the worker, employer or covered person, such member or employee is guilty of an offense unless such information is provided;

- (a) for the purposes of this Act;
- (b) as required by an order of the court;
- (c) as authorized by the Board.

(2) A person guilty of an offense under this Section shall, upon conviction, be liable to imprisonment for a period of not more than one year or a fine of not more than two thousand dollars (\$2,000), or both. [P.L. 2002-57, §33.]

§234. Examination and copying of records.

Any person who wilfully fails to allow the Board or any member of the administrative staff of the Health Fund to examine and copy books, accounts, records and other information pursuant to its authority to do so, shall be guilty of an offense and shall, upon conviction, be liable to a term of imprisonment not exceeding one (1) year or to fine of not more than five thousand dollars (\$5,000), or both. [P.L. 2002-57, §34.]

§235. Mismanagement of the Fund.

Any person having a fiduciary relationship with the Health Fund who is found to have mismanaged the Health Fund, whether by malfeasance or misfeasance shall be guilty of an offense and shall, upon conviction, be liable to imprisonment for a period not exceeding five (5) years or a fine of not more than ten thousand dollars (\$10,000), or both. [P.L. 2002-57, §35.]

§236. Penalties and interests; attorney; and collection fees; and court costs.

(1) If the contributions and/or the penalty imposed by this Act are not paid on or before the date prescribed for such payment, there shall be collected in addition to such contributions and penalties, interest levied on the unpaid balance of the contributions and/or penalties at the rate of twelve per cent (12 %) per annum from the due date until the date it is paid in full. In the event that the unpaid balance of contributions, penalty or interest due under this Act is referred to an attorney for collection, whether or not suit is brought for the collection thereof the employer shall additionally be liable for all reasonable attorney fees, costs of collection and court costs.

(2) If a person takes any money of the Health Fund by false pretenses, in addition to the money taken, such person shall pay to the Health Fund interest on the unpaid balance of the money taken at the rate of twelve per cent (12%) per cent per annum from the date of taking until the date the money is repaid in full. In the event that any amount of money due under this Section is referred to an attorney for collection, whether or not suit is brought for the collection thereof, the person owing said amount shall additionally be liable for all reasonable attorney fees, costs of collection and court costs.

(3) The interest, penalties, attorney fees or cost of collections due shall be paid into the Health Fund. [P.L. 2002-57, §36.]

PART VII - MISCELLANEOUS**§237. Taxation.**

The Health Fund income, property and all transactions of the Board shall not be subject to any tax, rates charges or impost under any law of the Republic, local governments or subdivisions thereof. [P.L. 2002-57, §37.]

§238. Fund not subject to attachment.

(1) The benefits, the worker and employer contributions and the Health Fund shall not be subject to execution, attachment, lien or garnishment, and shall not be assignable except as specifically provided in this Act.

(2) A covered person may assign his benefits in a manner prescribed by the Board.
[P.L. 2002-57, §38.]

§239. Service of Process on the Administration.

Any process or other notice required or permitted by this Act, or any other law to be served upon, or given to the Board shall be served or given by delivering such process or notice to the Chairman of the Board. [P.L. 2002-57, §39.]

§240. Liens.

All amounts due to the Health Fund under this Act shall constitute a lien upon the property of the person from whom the amount is due, having priority over all other claims and liens including liens for other taxes, except payment required under the Social Security Act of 1990 (49 MIRC, Chapter 1) and may be collected by levy upon such property in the same manner as the levy of an execution. [P.L. 2002-57, §40.]

§241. Transitional Provisions.

Until such time as the Board has successfully established and acquired an independent system in terms of personnel, resources such as office space, software programs and expertise to administer the Health Fund and its programs, including the collection and receipt of quarterly contributions, collections of over-due contributions, the Social Security Administration shall continue to undertake such responsibilities to allow for the smooth transition of responsibilities. [P.L. 2002-57, §41.]

§242. Regulations.

With the approval of the Minister, the Board may promulgate such rules and Regulations as it deems necessary or convenient for the administration of this Act. [P.L. 2002-57, §42.]

§243. Repeal.

The Social Security Health Fund Act of 1991 found under 49 MIRC Chapter 2, and all subsidiary amendments including the Social Security Health Fund (Amendment) Acts of 2000 and 2001, are hereby repealed. [P.L. 2002-57, §43.]

§244. Effective date.

This Act shall take effect on the date of certification in accordance with Article IV, Section 21 of the Constitution of the Republic of the Marshall Islands.

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