

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



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**COMMONWEALTH REGISTER**

**VOLUME 46  
NUMBER 10  
October 15, 2024  
Addendum**

**COMMONWEALTH REGISTER**  
**VOLUME 46**  
**NUMBER 10**  
**OCTOBER 15, 2024**  
**Addendum**

**PROPOSED**

Public Notice of Proposed Rules  
And Regulations for Operation of the  
**Commonwealth Lottery Commission**  
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Public Notice of Proposed Rules and Regulations  
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Request for Involuntary Dismissal  
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## COMMONWEALTH LOTTERY COMMISSION

P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115

### **PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS FOR OPERATION OF THE COMMONWEALTH OF THE NORTHERN MARIANAS LOTTERY**

#### **INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS:**


Commonwealth of the Northern Mariana Islands Lottery Commission intends to amend the Operation of the Commonwealth of the Northern Marianas Lottery Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after the publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).


**AUTHORITY:** These amendments are promulgated pursuant to the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC § 9305; 1 CMC § 9306; 1 CMC § 9313 and the Commonwealth Administrative Procedures Act, 1 CMC §§ 9101 *et seq.*


**THE TERMS AND SUBSTANCE:** The purpose of the regulations is for the Commonwealth to Lottery Commission revise regulations previously adopted by the Secretary of Finance (codified at NMIAC § 70-50.1), while performing functions pursuant to Executive Order 94-3, with amendments revising definitions, updating references to the Department of Finance to properly refer to the Commonwealth Lottery Commission, creating license fees for video lotteries, and adding rules for an additional lottery game.

**DIRECTIONS FOR FILING AND PUBLICATION:** These proposed amended regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1).


**TO PROVIDE COMMENTS:** Interested parties may submit written comments on the proposed regulations to Tracy B. Norita, Executive Secretary, Commonwealth Lottery Commission, via US mail to the Dept. of Finance, P O Box 5234 CHRB, or via hand-delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication in this notice. 1 CMC § 9104(a)(2).

Submitted by:  10/9/24  
TRACY B. NORITA  
Executive Secretary  
Commonwealth Lottery Commission  
Date

Received by:  10/10/24  
OSCAR BABAUTA  
Governor's Special Assistant  
for Administration  
Date

Filed & Recorded by:  10.22.2024  
ESTHER SAN NICOLAS  
Commonwealth Register *par*  
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, pursuant to 1 CMC § 2153(f).

 10/22/2024  
EDWARD MANIBUSAN  
Attorney General  
Date

## **Commonwealth gi Sangkattan na Islas Mariãnas Kumisi3n Rifa**

### **NUTISIAN PUPBLIKU PUT I MANMAPROPONA NA AREKLAMENTU YAN REGULASI3N SIHA PARA OPERASI3N RIFAN IYA COMMONWEALTH GI SANGKATTAN NA ISLAS MARIãNAS**

**I AKSION NI MA'INTENSIONA PARA U MA'ADãPTA ESTI I MANMAPROPONI NA  
REGULACION SIHA:** I Kumisi3n Rifa giya Commonwealth gi Sangkattan na Islas Mariãnas  
ha intensiona para u amenda i operasi3n Areklamentu yan Regulasi3n Rifan iya Commonwealth  
gi Sangkattan na Islas Mariãnas, sigun para i maneran nu i Åkton Administrative Procedures  
(APA), 1 CMC § 9104(a). Yanggin ma'adãpta, esti na tinilaika siha siempre umifektibu gi halum  
dies (10) dihas dispues di publikasion i Nutisian nu Adãptasi3n gi halum i Rehistran  
Commonwealth. (1 CMC § 9105(b)).


**ÅTURIDãT:** Esti na tinilaika siha ma'implimenta sigun gi åturidãt ni mapega mo'na gi halum  
Commonwealth Code kuntu, lão ti chi'ña para, 1 CMC § 9305; 1 CMC § 9306; 1 CMC § 9313  
yan i Åkton Commonwealth Administrative Procedures, 1 CMC § 9101 *et seq.*

**I TEMA YAN SUSTãNSIAN I PALãBRA SIHA:** I puntu nu i Regulasion siha sa' para i  
Kumisi3n Rifa maribisa na regulasi3n siha ni manma'adãpta gi ma'pus ni i Sekretãriun  
Fainansiãt (codified gi NMIAC § 70-50.1), mientras ubligasi3n-ña i che'chu' sigun gi Otdin  
Eksakatibu 94-3, yan tinilaika ni ha ribibisa i sustãnsian i palãbra, manna'nuebu i "references" gi  
Dipãttamentun Fainansiãt para propiu riferi guatu gi Kumisi3n Rifan Commonwealth,  
fina'titinas muttan lisensia para "video lotteries," yan umenta mãs areklamentu para ottru huegun  
rifa.

**DIREKSION PARA U MAPO'LU YAN PUPBLIKASION:** Esti i manmaproponi na  
regulasion siha ni ma'amenda para u mapublika gi halum i Rehistran Commonwealth gi  
seksiona ni Manmaproponi yan Nuebu na Ma'adãpta na Regulasion siha (1 CMC §9102(a)(1))  
yan mapega gi halum kumbinienti na lugãt gi halum civic centers, gi halum ufisinan  
gubietnamentu siha yan gi halum distritun senadot, parehu Inglis yan i dos prinsipãt na  
lingguãhin natibu (1 CMC §9104(a)(1)).


**PARA U MAPRIBENIYI UPIÑON SIHA:** I manintiresão na pattida siha siña ma'intrega  
hãlum tinigi' upiñon siha gi manmaproponi na regulasion siha guatu as Tracy B. Norita, i  
Eksakatibun Sekretãria, i Kumisi3n Rifan Commonwealth, gi US mail guatu gi Dept. of Finance,  
PO Box 5234 CHRB, pat intrega hãlum gi Ufisinan Sekretãrian Fainansiãt, gi Capitol Hill,  
Saipan, MP. I upiñon, infotmasi3n, views, pat agumentu siha debi na u fanhãlum gi halum trenta  
(30) dihas ginen i fetchan publikasi3n esti na nutisia. 1 CMC § 9104(a)(2)

Nina'hálum as:

  
\_\_\_\_\_  
TRACY B. NORITA  
Eksakatibun Sekretaría  
Kumisión Rifan Commonwealth

10/19/24  
Fetcha

Rinisibi as:

  
\_\_\_\_\_  
OSCAR BABAUTA  
Ispisiát na Ayudánte para i  
Atministrasi3n Gubietnu

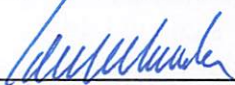
10/10/24  
Fetcha

Pine'lu & Ninota as:

  
\_\_\_\_\_  
ESTHER SAN NICOLAS  
Rehistran Commonwealth

10-22-2024  
Fetcha

Sigun para 1 CMC §2153(e), i manmaproponi na regulasion siha ni mañechettun guini maribisa yan aprueba komu para fotma yan sufisienti ligát ginen i Hinerát Abugádu CNMI yan debi na u mapupblika, sigun gi 1 CMC § 2153(f).

  
\_\_\_\_\_  
EDWARD MANIBUSAN  
Hinerát Abugádu

10/22/2024  
Fetcha

**Commonwealth Téel Falúw kka Efáng llól Marianas  
Lottery Commission**

**ARONGORONGOL TOULAP REEL PPWOMMWOL ALLÉGH ME  
MWÓGHUTUGHUTUL COMMONWEALTH TÉÉL FALÚW KKA EFÁNG LLÓL  
MARIANAS LOTTERY**

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMMWOL  
MWÓGHUTUGHUT:** Commonwealth Téél Falúw kka Efáng llól Marianas re mángemángil rebwe liiweli Mwóghutughutúl Allégh me Mwóghutughutúl Lottery me Commonwealth Téél Falúw kka Efáng llól Marianas, sáangi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a). Ngare re adóptááli, ebwe bwunguló liiwel kkaal seigh ráál mwiril aal akkatééwow eew Arongorongol Adóptaa me llól Commonwealth Register. 1 CMC § 9105(b).


**BWÁNGIL:** Ebwe arongowow liiwel kkaal sáangi bwángil iye e lo llól Commonwealth Code e schuulong, nge ese yoor pilil ngáli, 1 CMC § 9305, 1 CMC § 9305; 1 CMC § 9306; 1 CMC § 9313 me Commonwealth Administrative Procedures Act, 1 CMC § 9101 *et seq.*

**KKAPASAL ME AWEEWEEL:** Bwulul liiwel ngáli mwóghutughutúl Lottery Commission rebwe fféerú sefááliy mwóghutughut kka re adóptááli sáangi Sekkretóoriyal Finance (codified at NMIAC § 70-50.1), igha e lemelem sáangi Executive Order 94-3, fengál me liiwel me weeweel ikka re fféerú sefááli, ayoora ffél “refernces” ngáli Bwulasiyol Finance ngáli ebwe fil ngáli Commonwealth Lottery Commission, reel ayooral “license fees” ngáli “video lotteries”, me aschuulong allégh ngáli “lottery game”.

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow ppwommwol liiwelil mwóghutughut kkaal me llól Commonwealth Register llól táлил Ppwommwol me Ffél Mwóghutughut ikka ra Adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá me llól civic center me bwal llól bwulasiyol senatorial district, fengál reel English me mwaliyaasch. 1 CMC § 9104(a)(1)


**REEL ISIISILONGOL KKAPAS:** Schóó kka re tipáli rebwe isiisilong ischil kkapas wóól ppwommwol mwóghutughut kkaal rebwe isiis ngáli Tracy B. Norita, Executive Secretary, Commonwealth Lottery Commission, sáangi US mail ngáli Dept of Finance, P O Box 5234 CHRB, ngare bwughiló Bwulasiyol Sekktetóoriyal Finance, Asúngúl, Saipan, MP. Kkapas, data, views, ngare angiingi ebwe toolong eliigh ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2)

Isáliyalong:  10/9/24  
TRACY B. NORITA  
Executive Secretary  
Commonwealth Lottery Commission  
Ráál

Bwughiyal:  10/10/24  
OSCAR BABAUTA  
Governor's Special Assistant  
ngáli Administration  
Ráál

Ammwelil:  10-22-2024  
ESTHER SAN NICOLAS  
Commonwealth Register *ran*  
Ráál

Sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3) ra takkal amwuri fischiiy ppwommwol mwóghutughut kkaal me átirowal bwe aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalap CNMI me ebwe akkatééwow, sáangi 1 CMC § 2153(f).

 10/22/2024  
EDWARD MANIBUSAN  
Soulemelemil Allégh Lapalap  
Ráál



## § 70-50.1-010 Definitions

Unless otherwise specifically defined within 1 CMC §§ 9301, et seq., the Commonwealth Lottery Commission Act, or specifically defined herein, all words and phrases set forth in the rules and regulations in this subchapter shall be given their normal and commonly understood meaning with the masculine including the feminine and neuter, the singular including the plural, the plural including the singular, the present tense including the past

and future tense as is appropriate. As used in these rules and regulations:

(a) "Act": The Act is the CNMI Lottery Commission Act currently codified as 1 CMC §§ 9301, et seq.

(b) "Batu": The game of batu is a gambling game whereby a stick or other object creating a target is placed on the ground at a certain distance from where the player is standing with the player throwing a disc, or other similar object, at the stick or target in an effort to hit the stick or target or knock the stick or target over. The player, and others present, wager whether after a throw, or series of throws, of the disc or other similar object, the stick or target will be knocked over.

(c) "Beneficial Interest": A beneficial interest in an organization (as organization is defined below) means an interest held by a person (as person is defined below) directly or indirectly:

(1) That entitles such person to control, directly or indirectly, such organization; or

(2) Which constitutes more than five percent of the shares of voting stock or other voting securities which control or regulate the operation of the organization; or

(3) That entitles such person to more than five percent of the earnings and profits or distributions of such organization; or

(4) That entitles such person to five percent or more of the assets of such corporation upon the liquidation or dissolution of such organization; or

(5) From which such person receives or is legally entitled to receive over a period of time, interest payments, dividends or other payments totaling more than five thousand dollars, other than payments with respect to bonds, certificates of deposit, notes or other evidences of indebtedness which are generally offered to members of the public and for which such person paid a fair market value.

(d) "Bingo":

(1) As used herein bingo is a lottery game of chance, played at a fixed location, involving the distribution of tickets or play-slips to players, by either sale or in exchange for anything of value, with each of such tickets or play-slips usually containing a "free" square in the center plus various numbers or symbols, which numbers or symbols are

printed in such a manner that each "set" of bingo tickets or play-slips distributed for play

contain a series of tickets or play-slips numbering not less than 2,000; with each of the 2,000 tickets or play-slips having a different series or configuration of numbers or symbols (also within the bingo industry referred to as "faces") before any one ticket or play-slip is duplicated or replicated; with the tickets or play-slips only sold at the location where the bingo game will be conducted, with the first sale of tickets not to be made more than one-half hour prior to the conducting of the first bingo game; with the bingo ticket or play-slips sold to players being the only basis for the payment of prizes, with players winning prizes only on the basis of matching upon his or her bingo ticket or playslips various numbers or symbols drawn by lot, at random, by the caller of the game or selected through some similar method with the winner of each game being the player or players who match such numbers or symbols on their ticket or play-slip to create a previously selected and announced winning pattern used in bingo games which include, but are not limited to, small diamond, large diamond, four corners, horizontal, vertical, diagonal, window pane, picture-frame, X, coverall, etc.; with the drawing of numbers or symbols to conduct the lottery game of bingo limited to determining the winner of each bingo game and such numbers or symbols not being used for any other purpose including, but not limited to, any additional side-games or incidental games conducted as a result of or pursuant to the conduct of the bingo game as defined herein; with all prizes for winning bingo tickets being paid immediately, within five minutes, after the call of bingo and confirmation of winning bingo tickets, and if not paid on this basis prizes shall be forfeited to the bingo operator who may not redistribute such prizes except through the conducting of another bingo game as defined herein.

(2) In order to constitute the game of bingo which may be licensed by the Mayor of a senatorial district, all wagers must be placed in the presence of all persons playing the bingo game; and all winners must be determined in the presence of all persons playing the bingo game; and, the distribution of prizes must be made in the presence of all persons playing the bingo game.

(3) The offering for sale or sale of cards or tickets having numbers or symbols (whether or not similar in design to a bingo game card), sometimes called break-open tickets, instant lottery tickets, instant bingo tickets, scratch-off tickets, pull-tab tickets, pickle jar games, etc., which numbers or symbols are concealed or reprinted in a manner to provide for the distribution of a specific number of prizes or set dollar amount of prizes from each set or series of tickets, does not constitute the game of bingo; rather, the foregoing constitutes a lottery ticket and all such games are subject to licensing and regulation by the CNMI Lottery and, therefore, may not be sold by the holder of the Mayor's bingo license unless the sale of such game is also approved by the Secretary of Finance on behalf of the CNMI Lottery.

(4) Cards having numbers or symbols similar to a bingo game card but which numbers or symbols are concealed and reprinted in a manner to provide for the distribution of prizes on other than a completely random basis does not constitute the game of bingo; but rather, constitutes an instant lottery ticket subject to licensing and regulation by the ~~Department~~ Commission.

(e) "Chance": Chance creates a result that occurs from an unknown or uncertain force or condition whereby the result is reached by some action or means taken in such a manner that human reason, foresight, or design cannot enable a person to know or determine such result until the same has actually been accomplished. Chance, as used in the rules and regulations in this subchapter, means that the winner of a particular contest is determined by luck rather than skill. The involvement of some element of skill in the award of any particular prize will not remove such game from the classification as a lottery if chance remains as either a principle or predominate\* element in the award of such prize.

(f) Charitable Purpose: A charitable purpose is an activity undertaken by an organization recognized as a charitable tax-exempt organization by the Commonwealth of the Northern Mariana Islands under section 501(c)(3) of the NMTIT.

(g) "Commonwealth Lottery": The Commonwealth has the authority to license a variety of lottery games. The term "Lottery Operator" refers to an individual or entity licensed by the ~~Department~~ Commission to operate specific lottery games in the Commonwealth.

Authority to operate lottery games is specifically limited to the type of game identified in the lottery operator license and does not authorize operation of any other game or activity or provide any exclusive right to control the Commonwealth's ability to limit license activity or issue other licenses.

~~(h) "Department": The Department is the Department of Finance which took over the functions of the Lottery Commission pursuant to Executive Order 94-3, effective August 23, 1994.~~

(i) "Employee or Officer of the Department": An employee or officer of the Department, for the purposes of compliance with 1 CMC § 9321(d), is one who is specifically hired by the Department to act either in an employment capacity or management capacity for and on behalf of the Department in its supervision and regulation of the CNMI Lottery; and, who devotes substantially all of his or her time of employment to supervision and regulation of the CNMI Lottery; and, who is paid or otherwise compensated from a fund created specifically for such purpose by or on behalf of the Department.

(j) "Retailer": A retailer or Lottery retailer is an individual or entity which has been licensed by the ~~Department~~ Commission to sell lottery tickets for a specific lottery game. Authority to

sell or participate in lottery activities is specifically limited by the authorization provided in the license.

(k) "Gaming Rules" or "Game Rules": The term "gaming rules" or "game rules" means the rules set forth for a particular lottery game as defined in the rules and regulations of the CNMI Lottery, codified in this subchapter, and other rules or statutes defining lottery matters.

(l) "Gift Enterprise": A gift enterprise is a marketing scheme or program whereby participants register or otherwise obtain tickets at a sponsoring store or other location, and the number of tickets awarded to at least some of the participants in the enterprise is based upon the amount of merchandise, property or services which such participant purchases; and such tickets or other similar evidence of participation are then used for the distribution of property by chance among those who have participated in the program. The fact that the consideration to participate in such gift enterprise lottery is not paid exclusively for the chance pursuant to which one can win a prize does not remove such undertaking from regulation by the Department if the number of tickets, or similar indicia of entry, which are awarded to at least some participants is in any way based upon, or related to, the expenditure of funds at the sponsoring location.

(m) "Instant Ticket": An instant ticket is a lottery game whereby the player purchases a ticket that has a play area which, in some manner, is hidden from view, which play area contains numbers or symbols which when revealed will determine whether one or more prizes is won by the player; with such numbers or symbols reprinted in such a manner that the distribution of prizes within each game have been pre-determined as to the number and amount of prizes but not as to the random basis upon which prizes are awarded. Only Instant Tickets purchased from vendors approved by the Department are authorized to be used in Lottery Operations. The price of the ticket, game structure, vendor supplying tickets, odds for winning something of value (i.e. prize), and the value of the prize all must be authorized by the Department prior to initiation or sale of the Instant Tickets.

(n) "Instant Ticket Retailer": An instant retailer is a person or organization to whom the Department has issued a license and with whom the CNMI Lottery operator has contracted to sell instant lottery tickets to the public. Without affecting the definition herein, an instant retailer may, at some future date or time, become a full-service retail agency.

(o) "Jueteng Game": A jueteng game is a numbers lottery where a player may select and enter on a pre-printed ticket one number or two numbers from a game matrix of a pre-determined set of numbers or symbols, usually numbers 1 to 38, in an attempt to match one or two numbers randomly drawn or otherwise selected by chance. The winning numbers typically are drawn from a cylindrical tube or tambiola but also may be

established on some other random basis that is beyond the ability of the licensee to control or manipulate. When the number(s) drawn matches the number(s) selected by the player, the player is entitled to the winning prize for that particular drawing date and game.

(p) "License": A license is a permit or authorization issued by the ~~Department~~ Commission pursuant to the Act and the rules and regulations in this subchapter by which a person or organization is entitled to either operate an approved, specified, CNMI Lottery game (i.e., license to operate lottery); or conduct sales of lottery tickets associated with the Marianas Super Lottery and Instant Games only (lottery retail license). The operator of a specific CNMI Lottery game shall be issued a CNMI Lottery operator's license for the specified lottery game. The issuance of a CNMI Lottery License grants authority for operation of only the game and type of lottery specified and no others. A person or organization selling Marianas Super Lottery tickets and Instant Games Tickets in the CNMI must possess a Lottery Retail license issued by the Department for each retail location where sales occur.

(q) "Licensee": Any person or organization to whom a lottery license has been issued by the ~~Department~~ Commission. Separate licenses are issued for lottery operations and lottery sales.

(r) "Lottery or Lottery Games": As used herein "lottery or lottery games" has the same meaning as the definition set forth in § 9301(a)-(c) of the Act for a "public lottery" to wit: "public lottery means" a gambling scheme in which:

- (1) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or some other medium, one or more of which chances are to be designated the winning ones; and
- (2) The winning chances are to be determined by a drawing or by some other method based on an element of chance; and
- (3) The holders of the winning chances are to receive something of value.

(s) "Lottery Equipment": The term "Lottery Equipment" refers to all of the equipment associated with operation of any lottery game (including instant games) in the Commonwealth. The term equipment includes, but is not limited to, centralized computer, lottery tickets, random number generator, terminals for the issuance of tickets, instant tickets, ticket dispensers, report\*, and monitoring and reporting equipment. All Lottery Equipment is to provide acceptable documentation from the vendor as required by the ~~Department~~ Commission as to the accuracy, odds, and other certifications or assurances required by the Department prior to its use.

(t) "Lottery Operator": ~~Lottery Operator~~: The term Lottery Operator is the party to whom the ~~Department~~ Commission has issued a license to operate an authorized game pursuant to § 70-50.1-105, including the Marianas Super Lottery or Marianas Super Scratch-it Lottery and Video Lottery Games. ~~Operator is used\* to refer to individuals or~~

~~entity licensed by the Commonwealth to operate Video Lottery Games and is a distinct license from that for operation of the Marianas Super Scratch-it or Marianas Super Lottery.~~

(u) "Moral Turpitude": A crime of "moral turpitude" is such crime, whether a felony or misdemeanor, that involves illegal gambling, bookmaking, embezzlement, theft, bribery, use of controlled substance, corruption, abuse of a minor, contribution to the delinquency of a minor, or any other act or conduct that could or may impair a person's ability to perform his or her duties on behalf of the CNMI Lottery or that could or may impair the business or reputation of the CNMI Lottery.

(v) "Non-profit Organization": A non-profit organization is a person or organization having an existence for at least a period of 180 days which meets the following requirement:

(1) Any person or organization which is exempt from taxation under subsection (c)(3) of § 501 of the United States Internal Revenue Code and the Northern Marianas Income Tax Act of 1984, 4 CMC §§ 1700, et seq.

(w) "On-Line Game":

(1) An on-line lottery game is any type of lottery game which utilizes electronic equipment such as computer system to administer play and in which a player may select:

(i) a combination of numbers to be played;

(ii) the type of game to be played;

(iii) the amount of play for one or more specified drawing dates, and

(2) A random drawing or number is selected whereby, pursuant to chance, the winning combination or combinations of numbers are selected with such numbers then used to determine the award of prizes in accordance with the rules of the specific on-line game being played.

(3) The term "on-line" refers to the interaction between the retail lottery licensee and administration of lottery game and is not meant to infer permission or authorization by the Commonwealth for licensees to conduct direct electronic purchase, sales or any participation in on-line lottery activities by customers through electronic or telephonic communications. All on-line lottery sales and participation is restricted to physically present purchases by participants from lottery retailers at approved retail locations within the Commonwealth. The term "On-line Game" refers to the fact that the selection of numbers associated with the lottery game is conducted with a central computer system. The term "on-line" does not indicate a game structure in which individuals may purchase or play lottery games via the internet or any other connection with computer system or other electronic or telephonic purchase. All on-line lottery players must purchase tickets through lottery retailers through physical exchange of consideration at

a lottery retailer from customer to retailer at approved lottery retail locations and no direct electronic purchase is allowed.

**(4) "On-Line Game" does not include games licensed as "Video Lottery"**

(x) "Operator of the CNMI Lottery": Operator of the CNMI Lottery refers to a licensed operator of a specific type of lottery game as identified in the license. There can be multiple Operators of the CNMI Lottery at any given time depending upon the number of licenses issued by the ~~Department~~ Commission. Authority to operate any lottery is controlled by the specific game and terms identified in the license.

(y) "Organization": An organization can be either a corporation, partnership, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or other entity existing for any purpose.

(z) "Person": As used herein "person" has the same meaning as the definition set forth in § 9313(b) of the Act, to wit: "person" includes an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, or any other person acting in a fiduciary or representative capacity, or any combination of individuals. "Person" includes any department, commission, agency or instrumentality of the Commonwealth, including any municipality or political subdivision and any agency or instrumentality thereof. "Person" excludes any religious or other non-profit organization.

(aa) "Political Contribution": A political contribution is the giving of money or any other thing of value to: a candidate for election to any political or non-partisan office; or to any political party; or to a political faction of such political party; or to a political action committee within the Commonwealth.

(bb) "Political Activity": Means any activity by which a person or organization supports or opposes the election of a candidate for political office; or supports or opposes a political party in an election; or serves as a member of any committee of a political party or faction; or makes or solicits contributions for a political party, faction or candidate; or takes an active part in the management or affairs of a political party, faction or candidate.

(cc) "Religious Organization": A religious organization is a group having a continuous existence for at least a period of 180 days and comprised of not less than ten people whose primary purpose is to meet on a regular basis in common worship and religious observance and which has received tax exempt status of a 50 1(c)(3) organization in the Commonwealth of the Northern Mariana Islands.

(dd) "Retailer": A retailer or "Lottery Retailer" is any person or organization to whom the CNMI Lottery has issued a license to sell lottery tickets for a specified lottery game to the public.

(ee) "Rules of the game": Rules of the game are the "rules and regulations" as promulgated, and from time to time amended, by the CNMI Lottery including:

- (1) Lotto Regulations;
  - (2) CNMI Instant Ticket Regulations;
  - (3) CNMI Lottery Regulations;
  - (4) ~~Juenteng Jueteng~~ Regulations;
  - (5) Video Lottery Regulations.
- (ff) "Skimming": The skimming of lottery proceeds is the intentional exclusion, or the taking of any action in an attempt to exclude, any money, proceeds or their value from the deposit, counting, collection or computation of the gross revenue or net proceeds of the CNMI Lottery activities.
- (gg) ~~"Video Lottery": Any lottery conducted on a video lottery machine or linked video lottery machines with an aggregate progression prize or prizes.~~Any lottery game conducted on a video lottery terminal.
- (hh) ~~"Video Lottery Machine": Any machine in which coins, credits or tokens are deposited in order to play any game of chance in which the results, including options available to the player, are randomly and immediately determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding~~
- ~~(i) the use of an electronic credit system making the deposit of bills, coins, or tokens unnecessary, or~~
  - ~~(ii) the fact that the video lottery machine has employed dual function terminal technology.~~"Video Lottery Terminal":
- (1) An electronic machine that is centrally connected and/or monitored through a wide-area network approved computer system and on which individuals may purchase lottery tickets and play lottery games. A machine shall be considered a video lottery terminal if the machine is operated by a licensed lottery retailer and is located at a golf resort, a hotel that has one hundred rooms or more, or at any airport departure area that is accessible to departing passengers.

#### § 70-50.1-160 Lottery License Fee

- (a) For the privilege of engaging in the sale of lottery games in the CNMI, the following annual license fee schedule is established and must be paid as a condition of the issuance or renewal of a lottery license.
  - (1) Jueteng Game. A fixed fee of \$150,000 plus additional license fee as determined by the ~~Department of Finance~~ Commission based on a percent of gross sales;
  - (2) Instant Scratch Game. The license fee for this game shall be included within the fee for the Marianas Super Lottery. The license to operate the Marianas Lottery shall also allow the operator to operate the Instant Scratch Game without the payment of any



additional licensing fee. However, as soon as the license to operate the Marianas Lottery expires, is revoked or otherwise inoperative, the ability to operate the Instant Scratch Game shall also cease.

(3) Marianas Super Lottery. A fixed annual fee of \$150,000.

(4) Video Lottery. A fixed fee of \$150,000 plus an additional license fee as determined by the Commission based on a percent of gross sales;

(b) All fixed license fees must be paid in full prior to the issuance of a license, or otherwise authorized by the Commission. The additional license fee computed as a percentage of gross sales must be paid no later than the tenth day of each month following the month in which sales were made.

#### § 70-50.1-345 Rules for Marianas Blockchain Lottery

##### (a) Definitions

The Marianas Blockchain Lottery is a video lottery game in which players select three to six numbers from a field of numbers one (1) to one hundred twenty-seven (127) for the chance to participate in a game where a random number is generated via public blockchain data. This lottery is distinct and separate from an on-line lottery and a license to operate the Marianas Blockchain Lottery does not permit or allow one to preclude on-line lottery activities nor does an on-line lottery license permit operation of the Marianas Blockchain Lottery. The following definitions apply to the Marianas Blockchain Lottery unless the contract requires a different meaning or is otherwise inconsistent with the intention of the rules adopted by the Commonwealth Department of Finance:

(1) "Block" means the unique set of data added to a public blockchain at a specific historical date and time.

(2) "Digital Signature" means a cryptographic signature, produced by the licensed lottery operator and delivered to the player via electronic means.

(3) "Play Instance" means the interaction of player-chosen numbers and a random number, the results of which will have a particular outcome in terms of player winnings

(4) "Public blockchain" means an electronic record of transactions or other data which:

(i) is uniformly ordered;

(ii) is processed using a decentralized method by which two or more unaffiliated computers or machines verify the recorded transactions or other data;

(iii) is redundantly maintained by two or more unaffiliated computers or machines to guarantee the consistency or nonrepudiation of the recorded transactions or other data;

(iv) is validated by the use of cryptography; and

(v) does not restrict the ability of any computer or machine to:

(a) view the network on which the record is maintained; or

(b) maintain or validate the state of the public blockchain.

(5) "Random Number" means a number derived from processing the number that identifies a specific block of a public blockchain through a published algorithm.

(6) "Ticket" means electronic data transmitted to the player or recorded on a public blockchain, defining a single play instance, that includes but is not limited to:

(i) the numbers chosen by the player;

(ii) the maximum possible payout for a winning ticket; and

(iii) a digital signature

A winning ticket is redeemed by the player through interaction with the public blockchain via the player's wallet

(7) "Virtual currency" means a digital representation of value that:

(i) Is created, issued and maintained on a public blockchain;

(ii) Is accepted as a means of payment; and

(iii) May only be transferred, stored or traded electronically.

(8) "Wallet" means software operating on a video lottery terminal that allows a player to

(i) purchase tickets for the Marianas Blockchain Lottery;

(ii) see results of play instances; and

(iii) redeem winning tickets

(b) Ticket Price

The minimum price of a ticket shall be \$1, and the maximum price shall not exceed \$100.00.

(c) Method of Determining Winners

(1) Each ticket is associated with a particular block number. The specifics of this association are published by the Lottery Operator. The block identifier number for a ticket cannot be known before the ticket is sold.

(2) To determine a winning ticket the identifier number of the block associated with the ticket is processed through an algorithm, published by the Lottery Operator, and the resulting number is associated with a payout amount. The payout amounts and corresponding result numbers are published by the Lottery Operator.

(3) Using their wallet, the player can immediately redeem their winnings via a transaction broadcast to a public blockchain.

(d) Payment of Prizes

This rule provides procedures for a player to claim Marianas Blockchain Lottery ticket prizes and for payment of prizes on valid winning tickets.

(1) Ticket validation is done cryptographically via interaction between the player's wallet and the public blockchain. Redemption of winning tickets and payment of the appropriate amount to the player is done via virtual currency.

(2) In the case of a technical error of the public blockchain or wallet, and upon the Lottery Operator's determination that the ticket is a winner and the validation of the ticket, and upon the electronic delivery, by the player, of the ticket to the Marianas Lottery, the Lottery shall then present in person or by mail a check to the player in payment of the amount of the prize due less any applicable tax withholding. If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player shall be promptly notified.

(3) Any ticket not passing all applicable validation checks is invalid and void for claims made. A player submitting an invalid or void ticket is ineligible for any prize and no prize shall be paid for such a ticket.



**PUBLIC NOTICE OF PROPOSED DEPARTMENT OF LABOR  
RULES AND REGULATIONS  
FOR THE LONG-TERM DISABILITY TAX CREDIT**

**INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS:**

Commonwealth of the Northern Mariana Islands Department of Labor intends to adopt rules and regulations for the Long-Term Disability Tax Credit<sup>6</sup>, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after the publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

**AUTHORITY:** These regulations are promulgated pursuant to the authority set forth in Public Law No. 23-15 (establishing the Long-Term Disability Tax Credit) and the Commonwealth Administrative Procedures Act, 1 CMC § 9101 *et seq.*

**THE TERMS AND SUBSTANCE:** The purpose of the regulations is for the Department of Labor to establish regulations as required by Public Law No. 23-15 for the Long-Term Disability Tax Credit.

**DIRECTIONS FOR FILING AND PUBLICATION:** These proposed regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1).

**TO PROVIDE COMMENTS:** Interested parties may submit written comments on the proposed regulations to Leila F. Staffler, Secretary of the Department of Labor, via US mail to the Department of Labor, P O Box 10007, or via hand-delivery to the Office of the Department of Labor, Building No. 1356, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication in this notice. 1 CMC § 9104(a)(2).



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Department of Labor
1356 Mednilla Avenue Capitol Hill
PO Box 10007, Saipan MP 96950



Submitted by: [Signature]
LEILA F. STAFFLER
Secretary of the Department of Labor

[Signature]
Date

Received by: [Signature]
OSCAR BABAUTA
Governor's Special Assistant
for Administration

[Signature]
Date

Filed & Recorded by: [Signature]
ESTHER SAN NICOLAS
Commonwealth Register

[Signature]
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, pursuant to 1 CMC § 2153(f).

[Signature]
EDWARD MANIBUSAN
Attorney General

[Signature]
Date



## Commonwealth gi Sangkattan na Islas Mariãnas Dipãttamentun Hutnaleru

### NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASIÓ GI DIPÀTTAMENTUN HUTNALERU PARA I “LONG-TERM DISABILITY TAX CREDIT

**I AKSIÓN NI MA’INTENSIONA PARA U ADÀPTA ESTI I MANMAPROPONI NA REGULASIÓ SIHA:** I Dipãttamentun Hutnaleru giya Commonwealth gi Sangkattan na Islas Mariãnas ha intensiona para u adãpta i areklamentu yan regulasió para i “Long-Term Disability Tax Credit<sup>6</sup>, sigun gi maneran i Ákton Administrative Procedure (APA), 1 CMC § 9104(a). Yanggin ma’adãpta, esti na tinilaika siha siempri umifektibu gi dies (10) dihas dispues di publikasió nu i Nutisian i Adaptasió gi halum Rehistran Commonwealth. 1 CMC § 9105(b).

**ÁTURIDÁT:** Esti na regulasió siha ma’implimenta sigun gi áturidát ni mapega halum gi Lai Pupbliku No. 23-15 (inestableble si “Long-Term Disability Tax Credit) yan i Ákton Administrative Procedures, 1 CMC § 9101 *et seq.*

**I TEMA YAN SUSTÁNIAN I PALÁBRA SIHA:** I rason nu i regulasió sa’ i Dipãttamentun Hutnaleru para u estable si regulasió siha komu madimãnda ni Lai Pupbliku No. 23-15 para i “Long-Term Disability Tax Credit.”

**DIREKSIÓ PARA PINE’LU YAN PUBLIKASIÓ:** Esti i manmaproponi na regulasió siempri mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni manmaproponi yan nuebu na ma’adãpta na regulasió (1 CMC § 9102 (a)(1) yan u mapega gi kumbinienti na lugát siha gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan prinsipát na lingguãhin natibu. 1 CMC § 9104 (a)(1).

**PARA U MAPRIBENIYI UPIÑON SIHA:** I manitires na pattida siña manna’halum tinigi’ upiñon siha gi manmaproponi na regulasió guatu as Leila F. Staffler, i Sekretãrian Dipãttamentun Hutnaleru, gi maneran US mail para guatu gi “Department of Labor”, P O Box 10007, osino intrega hãlum gi Ufisinan Dipãttamentun Hutnaleru, Bibienda Numiru 1356, giya Capitol Hill, Sa’ipan, MP. I upiñon, infotmasió, views, pat agumentu siha debi na u fanhãlum gi halum trenta (30) dihas ginen i fetchan publikasió esti na nutisia. 1 CMC § 9104(a)(2).



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Department of Labor
1356 Mednilla Avenue Capitol Hill
PO Box 10007, Saipan MP 96950



Nina'hålum as: LEILA F. STAFFLER
Sekritarian Dipåtamentun Hutnaleru

10/10/24
Fetcha

Rinisibi as: OSCAR BABAUTA
Ispisiat na Ayudanti para i
Atministrasion

10/11/24
Fetcha

Pine'lu ya Ninota as: ESTHER SAN NICOLAS
Rehistran Commonwealth

10.22.2024
Fetcha

Sigun para 1 CMC §2153(e), i manmaproponi na regulasion siha ni mañechettun guini maribisa
yan aprueba komu para fotma yan sufisienti ligat ginen i Hinerat Abugadu CNMI yan debi na u
mapubblika, sigun gi 1 CMC § 2153(f).

EDWARD MANIBUSAN
Hinerat Abugadu

10/22/2024
Fetcha



## Commonwealth Téel Falúw kka Efang Ilól Marianas Bwulasiyol Labor

### ARONGORONGOL TOULAP REEL PPWOMMWOL ALLÉGH ME MWÓGHUTUGHUTÚL BWULASIYOL LABOR NGÁLI “LONG-TERM DISABILITY TAX CREDIT”

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMMWOL MWÓGHUTUGHUT KKAAL:** Commonwealth Téel Falúw kka Efang Ilól Marianas Bwulasiyol Labor re mángemángil rebwe adóptááli allégh me mwóghutughut ngáli “Long-Term Disability Tax Credit”, sángi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a). Ngare re adóptááli, ebwe bwunguló liiwel kkaal seigh ráal mwiril aal akkatééwow eew Arongorongol Adóptaa me Ilól Commonwealth Register. 1 CMC § 9105(b).

**BWÁNGIL:** Ebwe arongowow mwóghutughut kkaal sángi bwáng iye e ffat Ilól Alléghúl Toulap Numuro 23-15 (itittiwel “Long-Term Disability Tax Credit”) me Commonwealth Administrative Procedures Act, 1 CMC § 9101 *et seq.*

**KKAPASALME AWEEWEL:** Bwulul mwóghutughut kkaal ngáli Bwulasiyol Labor nge ebwe itittiw mwóghutughut ikka e fil sángi Alléghúl Toulap Numuro 23-15 ngáli mille “Long-Term Disability Tax Credit”.

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow ppwommwol mwóghutughut kkaal me Ilól Commonwealth Register Ilól tánil Ppommwol me Ffél Mwóghutughut ikka ra Adóptááli (1 CMC § 9102(A)(1)) me ebwe appaschetá Ilól civic center me bwal Ilól bwulasiyol gobetnameento Ilól senatorial district, fengál reel English me mwáliyaasch. 1 CMC § 9104(a)(1)

**REEL ISIISILONGOL KKPAS:** Schóó kka re tipáli rebwe isiisilong ischil kkapas wóól ppwommwol mwóghutughut kkaal rebwe isiis ngáli Leila F. Staffler; Sekkretóoriyal Labor, sángi US mail ngáli Bwulasiyol Labor, P I Box 10007, ngare bwughiló Bwulasiyol Labor, Kkayú numuro 1356, Asúngúl, Saipan, MP. Kkapas, data, views, ngare angiingi ebwe toolong eliigh ráal mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).





COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Department of Labor
1356 Mednilla Avenue Capitol Hill
PO Box 10007, Saipan MP 96950



Isáliyalong: LEILA F. STAFFLER
Sekretóoriyal Bwulasiyol Labor
10/10/24
Ráál

Bwughiyal: OSCAR BABAUTA
Governor's Special Assistant
ngáli Administration
10/10/24
Ráál

Ammwelil: ESTHER SAN NICOLAS
Commonwealth Register
10.24.2024
Ráál

Sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3) ra takkal amwuri fischiiy ppwommwol
mwóghutughut kkaal me átirowa bwe aa fil reel fféerúl me legal sufficiency sáangi Soulemelemil
Allégh Lapalalap CNMI me ebwe akkatééwow, sáangi 1 CMC § 2153(f).

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap
10/20/2024
Ráál

**SUBCHAPTER 80-20.10**  
**LONG-TERM DISABILITY EMPLOYMENT TAX CREDIT**  
**REGULATIONS**

<b>Part 001 -</b>	<b>General Provisions</b>	<b>Part 200 - Required Documentation</b>
§ 80-20.10-001	Purpose	§ 80-20.10-201 Enforcement and
§ 80-20.10-005	Definitions	Penalties
<b>Part 100 -</b>	<b>Eligibility</b>	<b>Part 300 - Appeals</b>
§ 80-20.10-101	Eligibility Criteria	§ 80-20.10-301 Appeals Process
§ 80-20.10-105	Employee Eligibility	<b>Part 400 - Miscellaneous Provisions</b>
	Certification	§ 80-20.10-401 Severability
§ 80-20.10-110	Annual Certification	
§ 80-20.10-115	Compliance Letter	

**Part 001 - General Provisions**

**§ 80-20.10-001 Purpose**

Tax incentives for employers hiring people with special needs are pivotal for fostering inclusivity and economic empowerment in the Commonwealth. Such incentives not only encourage job creation but also promote diversity in the workplace. By easing the financial burden on employers, these incentives facilitate opportunities for individuals with special needs to contribute their skills and talents to the workforce. Moreover, they help dismantle barriers to employment, fostering a more inclusive society where everyone has the chance to thrive. By incentivizing inclusive employment practices, this regulation promotes equality, diversity, and economic empowerment for individuals with disabilities.

The purpose of these regulations is to set forth the necessary procedures and requirements to implement Public Law 23-15, “to enact a provision to provide tax incentives for employers who hire individuals with special needs.”

**§ 80-20.10-005 Definitions**

(a) “Disabled Person” means an individual with a disability, as defined under the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.).

(b) “Compliance Letter” means a letter from a licensed medical doctor, doctor of osteopathy, or clinical psychologist verifying the disability status of an employee in accordance with § 80-20.10-201.

- (c) “Tax Credit” means the Long-Term Disability Employment Tax Credit as provided in 4 CMC § 1312.
- (d) “Qualifying Wages” means the wages paid or incurred by the employer during the taxable year to a Disabled Person.
- (e) “Secretary of Labor” means the Secretary of the Department of Labor.

**Part 100 - Eligibility**

**§ 80-20.10-101 Eligibility Criteria**

- (a) In General. To be eligible for the Tax Credit, employers must demonstrate the following:
  - (1) Hiring of a Disabled Person on a part-time or full time basis on or after January 1, 2024; and
  - (2) The individual was continuously employed by the employer for at least nine (9) months.
- (b) Restrictions. The employer will not be eligible for a Tax Credit for an employee who was dismissed and rehired by the employer, unless there was a valid business reason, unrelated to the availability of the Tax Credit, for the dismissal and rehire.

**§ 80-20.10-105 Employee Eligibility Certification**

- (a) The Secretary of Labor shall issue an Employee Eligibility Certification based on the employer’s application and verification of the employee’s eligibility criteria. The application must be submitted on forms prescribed by the Secretary of Labor and include a Compliance Letter issued in accordance with § 80-20.10-115.
- (b) Rule for Employee Eligibility Certifications.
  - (1) In general. An employee shall not be treated as a Disabled Person unless the employer submits an application for Employee Eligibility Certification to the Department of Labor prior to hiring the employee.
  - (2) Exception. For employees that began work for the employer between January 1, 2024, and December 31, 2024, the employee will be treated as a Disabled Person if the employer submits an application for Employee Eligibility Certification to the Department of Labor on or before December 31, 2024.

**§ 80-20.10-110 Annual Certification**

- (a) An employer may not claim a Tax Credit unless it has been issued an Annual Certification by the Secretary of Labor.
- (b) The Annual Certification shall be based on the employer's application and documentation verification that each eligible employee:
  - (1) Has been continuously employed for at least nine (9) months; and
  - (2) Received qualifying wages during the applicable tax year.
- (c) The application for Annual Certification shall be submitted on forms prescribed by the Secretary of Labor and must include:
  - (1) A record of each employee's start date, employment duration, and total qualifying wages paid during the tax year;
  - (2) A copy of the Compliance Letter issued in accordance with § 80-20.10-201; and
  - (3) A payment in the amount of \$100 for the Annual Certification Fee.
- (d) The employer must submit the request for Annual Certification to the Secretary of Labor no later than February 15<sup>th</sup> of the applicable tax year.
- (e) The Secretary of Labor may request additional information or documentation if needed to verify compliance with the statutory and regulatory requirements.
- (f) If the Secretary of Labor finds that the employer has met all necessary criteria, an Annual Certification will be issued within thirty (30) days of submission.
- (g) If the employer fails to meet the requirements for the Annual Certification, the employer will not be eligible to claim the tax credit for the respective tax year.
- (h) The employer shall retain all records related to the Annual Certification for a period of three (3) years and make them available for audit or inspection upon request by the Department of Labor or Division of Revenue and Taxation.

**§ 80-20.10-115 Compliance Letter**

- (a) A Compliance Letter must be issued by a medical doctor, doctor of osteopathy, or clinical psychologist licensed to practice in the United States, including the U.S. territories of the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, American Samoa, and the Virgin Islands. A Compliance Letter must be submitted on forms prescribed by the Secretary of Labor or include the following information:
  - (1) Employee's name and date of birth;

- (2) Medical professional's name, business address, contact information, and professional licensure information;
- (3) Date of last examination;
- (4) A statement under the pains and penalties of perjury that:
  - (i) The employee/patient has been last examined on the date identified in (a)(3);
  - (ii) The employee/patient's identity has been verified using a United States or State government-issued photographic identity document, along with the identity document type and ID number; and
  - (iii) Based on examination of the employee/patient and review of any relevant medical information, the employee/patient has been determined to be disabled within the meaning of the Americans with Disabilities Act of 1990, as amended.

**Part 200 - Enforcement and Penalties**

**§ 80-20.10-201 Enforcement and Penalties**

(a) **Non-Compliance Penalties.** Employers who fail to comply with the requirements outlined in these regulations may be subject to the following penalties:

- (1) **Fines.** The Department of Labor Administrative Hearing Office may impose a fine up to \$2000 for non-compliance, including failure to maintain required records, submit necessary documentation, or misrepresentations related to tax credit claims.
- (2) **Revocation of Tax Credit.** If an employer is found to have falsely claimed a tax credit or failed to meet the eligibility and certification requirements, the Department of Labor or Division of Revenue and Taxation may revoke the tax credit for the applicable tax year(s).
- (3) **Disqualification from Future Tax Credits.** Repeated or egregious violations of these regulations may result in the disqualification of the employer from claiming the Tax Credit in future tax years.

(b) **Audit and Inspection.** Employers claiming the Tax Credit must retain all supporting documentation, including employee eligibility and annual certification records, for a period of at least three (3) years following the tax year in which the credit was claimed. The Department of Labor reserves the right to audit or inspect such records at any time during this period to verify compliance with the requirements of these regulations. Failure to provide adequate documentation upon request may result in penalties as outlined in subsection (a).

(c) **Cooperation in Investigations.** Employers are required to cooperate fully with any investigation or audit conducted by the Department of Labor or Division of Revenue and Taxation related to the tax credit claim. Failure to do so may result in additional penalties, including the immediate disqualification from the tax credit program, revocation of previously claimed credits, and potential fines.

(d) **Repayment of Improperly Claimed Credits.** If an audit or investigation reveals that an employer improperly claimed the tax credit, the employer shall be required to repay the full amount of any improperly claimed credit, along with applicable interest and penalties as determined by the Division of Revenue and Taxation.

**Part 300 - Appeals**

**§ 80-20.10-301 Appeals Process**

(a) **Request for Administrative Review.** An employer may request an administrative review of any denial or penalty imposed under these regulations. The request must be submitted in writing to the Secretary within thirty (15) days of the date on the notice of denial or penalty. The request should include a detailed explanation of the grounds for appeal, along with any supporting documentation.

(b) **Decision on Administrative Review.** Upon receipt of a timely request for administrative review, the Secretary or his/her designee shall conduct a review of the employer's submission. The Secretary or his/her designee may request additional documentation or clarification from the employer as necessary. A written decision will be issued within thirty (30) days of receipt of all relevant materials. The employer will be notified of the decision in writing.

(c) **Administrative Appeal.** An employer may appeal a decision rendered in the administrative review by the employer may request a formal hearing. Notice of appeal must be submitted in writing to the Secretary within fifteen (15) days of the date of the decision from the administrative review. The request must clearly state the grounds for the hearing and include any additional evidence the employer intends to present.

(d) **Hearing Process.** Upon receipt of a timely request for a hearing, a formal hearing shall be scheduled. The employer will be provided with notice of the hearing date, time, and location at least ten (10) days prior to the hearing. The employer may present evidence, call witnesses, and be represented by legal counsel at the hearing. Hearings shall be conducted in accordance with the Administrative Procedure Act, 1 CMC §§ 9101 et seq.

(e) **Final Decision.** Following the hearing, the Secretary or a designated hearing officer shall issue a final written decision within thirty (30) days. The decision will include findings of fact, conclusions of law, and any applicable penalties or remedies. A copy of the decision will be sent to the employer by certified mail or other appropriate means.

**Part 400 - Miscellaneous Provisions**

**§ 80-20.10-401 Severability**

If any provision of the regulations in this subchapter or the application of such regulations to any person or circumstance shall be held invalid by a court of competent jurisdiction, the remainder of such regulations or the application of such regulations to persons or circumstances other than those as to which it was held invalid shall not be affected thereby.



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	Labor Case No. 24-004
	)	
Frances T. Santos,	)	
	)	
Complainant,	)	<b>ORDER GRANTING RESPONDENT'S</b>
	)	<b>REQUEST FOR INVOLUNTARY</b>
v.	)	<b>DISMISSAL</b>
	)	
Kagman Community Health Center, Inc.,	)	
	)	
Respondent.	)	

Pursuant to 3 CMC § 4947(a), “the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See also* NMIAC § 80-20.1-485(b). With respect to jurisdiction and permissible claims: “[t]he Administrative Hearing Office shall have original jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth, including but not limited to any violation of this chapter and regulations promulgated thereunder.” 3 CMC § 4942. Generally, these types of cases involve a violation of the CNMI minimum wage, employment preference requirements, unlawful reductions in force, and other regulatory issues. *See* NMIAC § 80-20.1-450.

On September 3, 2024, Complainant initiated a labor case against Respondent for violation of 1 CMC § 7841, Protection of Whistle-blowers statute. On September 5, 2024, Respondent filed a Request for Involuntary Dismissal due to lack of subject matter jurisdiction over the alleged claim. On September 18, 2024, Complainant was ordered to respond to the motion and show cause why the complaint should not be dismissed for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. After granting a motion to extend the filing

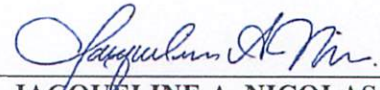


1 deadline, Complainant's response was due on or before October 11, 2024. Complainant did not  
2 file a response to address the above-mentioned deficiencies.

3 Accordingly, upon notice and opportunity to respond, Complainant failed to show cause why  
4 the complaint against Respondent should not be dismissed for lack of subject matter jurisdiction  
5 and failure to state a claim upon which a relief can be granted. While the undersigned recognizes  
6 that Complainant has a dispute with Respondent over the termination, the alleged dispute does  
7 not involve a violation of law within this Office's jurisdiction. Further, this office has no authority  
8 to grant any relief with respect to the alleged dispute. For that reason, the complaint lacks merit  
9 and dismissal is appropriate. Based on the applicable law, Respondent's Request for Involuntary  
Dismissal is **GRANTED** with prejudice. This matter is hereby **DISMISSED**.

10 Any person or party aggrieved by this Order may appeal by filing the Secretary Appeal Form  
11 and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of  
12 this Order.

13 So ordered this **18th** day of October, 2024.



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**JACQUELINE A. NICOLAS**  
Chief Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

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In Re Matter of:	)	Labor Case No. 24-005
	)	
Haiqiang Wen,	)	
	)	
Complainant,	)	ADMINISTRATIVE DECISION
	)	DISMISSING COMPLAINT FOR LACK
v.	)	OF JURISDICTION AND FAILURE TO
	)	STATE A CLAIM
99 Cents Supermart, Inc.	)	
	)	
Respondent.	)	
	)	

Pursuant to 3 CMC § 4947(a), “the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See also* NMIAC § 80-20.1-485(b).

On September 12, 2024, Complainant filed a complaint against Respondent. Therein, Complainant contested his termination from the company and claimed that the company’s actions were deceptive and discriminatory. On September 18, 2024, Complainant was ordered to show cause why the Complaint should not be dismissed for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. Complainant’s response was due on September 30, 2024. Complainant did not file a response.

The Order to Show Cause served as a notice of the deficiency in the complaint and provided Complainant an opportunity to respond in writing. For the reasons stated below, the undersigned finds that Complainant failed to show cause and dismissal is appropriate.

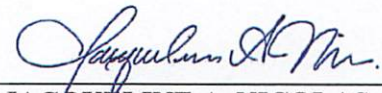
The Department’s statutory authority provides: “[t]he Administrative Hearing Office shall have original jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth, including but not limited to any violation of this chapter and

1 regulations promulgated thereunder.” 3 CMC § 4942. Generally, these types of cases involve a  
2 violation of the CNMI minimum wage, employment preference requirements, unlawful  
3 reductions in force, and other regulatory issues. *See* NMIAC § 80-20.1-450. This office may only  
4 review and award relief in cases within its jurisdiction.

5 This office does not have jurisdiction with respect to allegations of employment related  
6 discrimination. Further, while the undersigned recognizes that Complainant disagrees with his  
7 termination, the complaint fails to show how the termination was a violation of law enforced by  
8 this office. Upon notice and opportunity to respond, Complainant failed to show cause why this  
9 claim should not be dismissed. For that reason, the complaint lacks merit and dismissal is  
10 appropriate. Pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**.

11 Any person or party aggrieved by this Order may appeal by filing the Secretary Appeal Form  
12 and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of  
13 this Order.

14 So ordered this **8th** day of October, 2024.



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**JACQUELINE A. NICOLAS**  
Chief Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

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In Re Matter of:	)	PUA Case No. 23-0261
	)	
Keith K. Tawanpiy,	)	
	)	
Appellant,	)	<b>ADMINISTRATIVE DECISION</b>
	)	<b>GRANTING APPELLANT'S REQUEST</b>
v.	)	<b>FOR DISMISSAL</b>
	)	
CNMI Department of Labor,	)	
	)	
	)	
Appellee.	)	
	)	

On September 19, 2024, Appellant filed a request to dismiss his appeal because he agrees to the Department's decision and no longer wants to pursue his Appeal. The Department does not oppose dismissal.

In consideration of the above, there are no issues for the undersigned to resolve and the undersigned finds that dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED**. Further, the September 26, 2024 Administrative Hearing is **VACATED** and shall be taken off calendar. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **19th** day of September, 2024.

*Jacqueline A. Nicolas*  
 \_\_\_\_\_  
**JACQUELINE A. NICOLAS**  
 Chief Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR



ADMINISTRATIVE HEARING OFFICE



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In Re Matter of:	)	PUA Case No. 23-0262
	)	
Jhemery Pascual,	)	
	)	
Appellant,	)	<b>ORDER GRANTING PARTIES'</b>
	)	<b>STIPULATED MOTION TO DISMISS</b>
v.	)	
	)	
CNMI Department of Labor,	)	
	)	
Appellee.	)	
	)	

This matter came before the undersigned for an Administrative Hearing on October 10, 2024 at approximately 9:00 a.m.<sup>1</sup> at the Administrative Hearing Office, Saipan. Based on matters discussed during the Administrative Hearing, the parties' filed a Stipulated Motion to Dismiss the above-captioned appeal. Upon review, the undersigned finds:

1. Appellant no longer contests the three October 17, 2023 Disqualifying Determination on appeal;
2. The Department has reviewed the case and issued a new Notice of Overpayment and Waiver which the Appellant has agreed to and does not contest;
3. The Department will promptly issue remaining benefits due to Appellant; and
4. There are no remaining issues to resolve.

Based on above, there are no remaining issues to resolve and dismissal is appropriate. Accordingly, the parties' joint settlement is approved and this appeal is hereby **DISMISSED**.

So ordered this **10th** day of October, 2024.

**Jacqueline A. Nicolas**  
Chief Administrative Hearing Officer

<sup>1</sup> The hearing began at 9:00 a.m. but was continued to 2:30 p.m. based on the parties' request to confer about a potential settlement.



# CNMI DEPARTMENT OF LABOR



## ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	PUA Case No. 23-0265
	)	
Elorene Ayuyu,	)	
	)	
Appellant,	)	<b>FINDINGS OF FACT AND</b>
	)	<b>CONCLUSIONS OF LAW</b>
v.	)	
	)	
CNMI Department of Labor,	)	
	)	
Appellee.	)	
	)	

### I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 17, 2024 at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan. Appellant Elorene B. Ayuyu (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor (“Appellee” or “Department”) was present and represented by PUA Adjudicator Asako Camacho.<sup>1</sup>

Based on the applicable law, parties’ arguments, and evidence presented, the Department’s Determination dated December 5, 2023 is **AFFIRMED**. Appellant is **NOT ELIGIBLE** for benefits for the period of August 29, 2021 to September 4, 2021.

### II. JURISDICTION

Pandemic Unemployment Assistance (“PUA”) is federal unemployment benefits distributed by state agencies to eligible workers affected by the COVID-19 public health emergency.<sup>2</sup> The CNMI Department of Labor (“Department”) is responsible for administering the federal PUA program to eligible workers in the CNMI.<sup>3</sup> Further, the Department’s Administrative Hearing

<sup>1</sup> PUA Adjudication Management Analyst was present to observe.

<sup>2</sup> See 15 USCA § 9021.

<sup>3</sup> See 15 USCA § 9021(f).

1 Office is designated to review appeals of any PUA determination or redetermination issued in the  
2 CNMI.<sup>4</sup>

3 Appellant is a CNMI resident who filed a claim for unemployment benefits under the PUA  
4 program administered by the Department. Appellant was ultimately denied benefits and is  
5 appealing the Department's Disqualifying Determination. Accordingly, jurisdiction is  
6 established.

### 7 III. PROCEDURAL BACKGROUND

8 This matter concerns the denial of PUA benefits. On December 5, 2023, the Department  
9 issued a Disqualifying Determination, effective August 29, 2021 to September 4, 2021. The  
10 Disqualifying Determination provides that Appellant made customary wages during the  
11 disqualified weeks. On December 18, 2023, Appellant filed an appeal to contest the Disqualifying  
12 Determination and the matter was scheduled for a hearing. In preparation for the hearing, the  
13 parties were ordered to file a prehearing statement and proposed exhibits. On December 27, 2023,  
14 the Department filed their prehearing statement with proposed exhibits. On December 29, 2023,  
15 Appellant filed their prehearing statement with proposed exhibits. The hearing was held on  
16 October 17, 2024.

### 17 IV. ISSUE STATEMENT

18 The issue(s) on appeal are:

- 19 1. Whether the appeal is timely filed;<sup>5</sup> and
- 20 2. Whether Appellant is eligible to receive PUA benefits.

### 21 V. FINDINGS OF FACT

22 In consideration of the evidence admitted and credibility of witness testimony, the  
23 undersigned issues the following findings of fact:

- 24 1. Appellant is a CNMI resident, living and working in Saipan.<sup>6</sup>
- 25 2. Beginning May 14, 2021, Appellant worked for International Roller Skates as a cashier  
26 with an hourly wage of \$7.25 per hour.<sup>7</sup> Appellant was hired as a part-time employee and  
27 generally worked 15-20 hours a week or 30-40 hours per pay period.

28 <sup>4</sup> See 15 USCA § 9021(c).

<sup>5</sup> In the event that the appeal is not timely filed, the latter issue(s) will be considered moot and omitted from the decision.

<sup>6</sup> Exhibit I (A copy of Appellant's Application Snapshot, filed October 1, 2021).

<sup>7</sup> Due to conflicting testimony from Appellant and proposed exhibits, during the hearing the parties clarified

- 1 3. On or around October 1, 2021 , Appellant applied for unemployment assistance under the  
2 PUA and FPUC programs administered by the Department.<sup>8</sup> In the initial application,  
3 Appellant claims:
- 4 a. Appellant is authorized to work in the CNMI as a U.S. Citizen.
  - 5 b. Appellant’s employment was affected by COVID-19 when “I am an employee and  
6 my hours have been reduced or I was laid off as a direct result of the COVID-19  
7 public health emergency”; and
  - 8 c. Appellant’s employment was affected since May 14, 2021.
- 9 4. In submitting the initial application, Appellant acknowledged:
- 10 a. It is her responsibility to read and familiarize herself with the PUA Benefit Rights  
11 Information Handbook;
  - 12 b. The responses provided in her application are true, accurate, and complete under  
13 penalty of perjury; and
  - 14 c. False statements are punishable as fraud.
- 15 5. On February 2, 2022, the Department issued a Disqualifying Determination.<sup>9</sup> The  
16 Disqualifying Determination stated:
- 17 a. Appellant failed to provide documentation to show CNMI residency and how her  
18 employment was affected by the pandemic;
  - 19 b. Appellant was disqualified from August 29, 2021 to September 4, 2021; and
  - 20 c. Appellant’s ten-day deadline to appeal was February 12, 2022.
- 21 6. The Disqualifying Determination was served to Appellant through the online portal  
22 internal message and personal email.
- 23 7. Appellant filed a request for reconsideration. Upon further review and investigation, the  
24 Department obtained an employment verification, timesheets, and paystubs for the period  
25 in question.
- 26 a. From August 22 to September 4, Appellant worked a total of 43 hours.<sup>10</sup>
  - 27 b. Appellant worked more than her customary hours because she was covering for  
28 her other coworkers.

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Appellant’s start date to be May 14, 2021(See Exhibits 5, 9 and 10).

<sup>8</sup> Exhibit #1 (A copy of Appellant’s Application Snapshot, filed October 1, 2021).

<sup>9</sup> Exhibit #2c (A copy of Appellant’s Disqualifying Determination, dated February 2, 2022)

<sup>10</sup> Exhibit #3 (A copy of Appellant’s Time Cards, dated August 22, 2021 to September 18, 2021).



- 1 c. Appellant was paid for the 43 hours, which was an increase than her usual pay.<sup>11</sup>
- 2 d. Appellant provided no other documentary evidence to establish that her
- 3 employment was directly affected by the COVID-19 public health emergency
- 4 during the relevant time period.
- 5 8. On December 5, 2023, the Department issued a Redetermination. The Redetermination
- 6 stated:
- 7 a. Appellant made more than her customary hours and wages for the relevant time
- 8 period;
- 9 b. Appellant is still disqualified from August 29, 2021 to September 4, 2021; and
- 10 c. Appellant's ten-day deadline to appeal was December 15, 2023.
- 11 9. The December 5, 2023, the Redetermination was served to Appellant through the online
- 12 portal internal message and personal email. Appellant confirmed receipt and notice of the
- 13 Redetermination.
- 14 10. Appellant had notice of her appeal rights.
- 15 a. The appeal deadline and appeal rights were included on the Disqualifying
- 16 Determination.<sup>12</sup>
- 17 b. The appeal rights and instructions were included on the Appeal Forms and other
- 18 resources, publicly available on the Department website.
- 19 c. The appeal deadline and appeal rights were included in the Benefit Rights
- 20 Information Handbook<sup>13</sup>—which claimants are responsible for reading.
- 21 11. Appellant could not clearly and definitively explain why she did not file her appeal on or
- 22 before December 15, 2023. However, Appellant speculated that she filed late because she
- 23 was having technical issues with her phone and the portal, had limited access to internet,
- 24 and did not have money or transportation to visit the Department.
- 25 12. On December 18, 2023, Appellant filed an appeal at the Administrative Hearing Office.
- 26 The appeal was filed three days after the 10-day deadline to submit.
- 27 13. Upon appeal, the Department's Benefit Payment Control Unit conducted an audit and
- 28 concluded that no overpayment occurred.<sup>14</sup>

<sup>11</sup> Exhibit #4 (A copy of Appellant's Pay Stub, dated September 23, 2021).

<sup>12</sup> Exhibit #6 (A copy of Department's Disqualifying Determination, dated December 5, 2023).

<sup>13</sup> Exhibit #8 (A copy of the Benefit Rights Information Handbook).

<sup>14</sup> Exhibit #7 (A copy of the Benefit Payment Control Unit Email Communication).

VI. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law,<sup>15</sup> the undersigned issues the following conclusions of law:

**A. Appellant’s appeal was timely filed.**

An appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. HI. Rev. Statute § 383-38(a). However, the deadline to file an appeal may be extended to 30 days by a showing of good cause. HAR § 12-5-81(j). Good cause means: (1) illness or disability; (2) keeping an appointment for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would prevent a reasonable person from complying as directed. *Id.*

Here, the Redetermination was issued on December 5, 2023. Appellant’s 10-day deadline to file an appeal was December 15, 2023. Appellant filed three days after the deadline on December 18, 2023 due to technical glitches, limited access to the internet, and inability to drive or pay for public transportation to visit the Department. Additionally, Appellant stated that she made many attempts to contact the Department by phone and remembers filing her appeal as promptly as she could. Based on the Appellant’s difficulties and diligence under the circumstances, the undersigned finds that Appellant is entitled to a good cause extension to 30 days. Based on this good cause extension, Appellant’s appeal is timely filed.

**B. Appellant is not a “covered individual” eligible for PUA benefits.**

Pandemic unemployment assistance is available to covered individuals, for up to 79 weeks from January 27, 2020 to September 6, 2021, so long as their unemployment, partial unemployment, or inability to work was caused by COVID-19. 15 USCA § 9021. A “covered individual” is someone who: (1) is not eligible for regular compensation or extended benefits under State or Federal Law; (2) self-certifies he or she is able to work and available for work but is unemployed, partially unemployed, unable or unavailable to work as a direct result of COVID-

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<sup>15</sup> Generally, PUA determinations are made based on a combination of federal and state law. The CARES Act (Pub. L. No. 116-136), the Continued Assistance Act (Pub. L. No. 116-260 § 201), and the American Rescue Plan Act (Pub. L. No. 117-2), which funded and created the program, were codified under 15 USCA § 9021. Unless otherwise provided by statute, the Disaster Unemployment Assistance (DUA) program regulations under 20 CFR Part 625 applies to the PUA program. 15 USCA § 9021(h). As stated therein, the applicable state law in the Commonwealth of the Northern Mariana Islands is Hawaii Employment Security Law. 20 CFR §§ 652.2 and 625.11; *see also* 15 USCA § 9021(c).

1 19; and (3) timely provides documentation to substantiate employment, self-employment, or  
2 planned commencement of employment. 15 USCA § 9021 (a)(3)(A).

3 **1. Appellant did not submit sufficient documents to substantiate that her**  
4 **employment was affected by the COVID-19 public health emergency.**

5 In order to be eligible for PUA, an individual must provide documentation substantiating  
6 employment, self-employment, or the planned commencement of employment or self-  
7 employment within 21 days of submitting an application or upon the Department's request. 15  
8 USCA § 9021(a)(3)(A)(iii); *See also* 20 CFR § 625.6. The deadline to submit may be extended  
9 for good cause. 15 USCA § 9021(a)(3)(A)(iii). Failure to supply said documents, and any other  
relevant, requested documents is a justifiable basis to deny benefits. HAR § 12-5-81(j).

10 Based on the filings and the matters discussed at the hearing, Appellant failed to meet her  
11 burden. First, the proposed exhibits submitted by Appellant were not relevant to the applicable  
12 time frame. Second, the time sheet and paystub that the Department relied on in making their  
13 decision was not contested. Third, Appellant had no other documents to demonstrate that her  
14 employment was affected by the COVID-19 public health emergency.

15 **2. Appellant's employment was not affected by a qualifying COVID-19 reason.**

16 In order to be eligible for benefits, Appellant must show her employment was affected as a  
17 direct result<sup>16</sup> of a qualifying COVID-19 reason. 15 USCA § 9021(a)(3)(A)(ii). An individual  
was directly affected by COVID-19 if:

- 18 a. The individual has been diagnosed with COVID-19 or is experiencing  
19 symptoms of COVID-19 and is seeking a medical diagnosis;
- 20 b. A member of the individual's household has been diagnosed with COVID-  
21 19;
- 22 c. The individual is providing care for a family member or a member of the  
23 individual's household who has been diagnosed with COVID-19;
- 24 d. A child or other person in the household for which the individual has  
25 primary caregiving responsibility is unable to attend school or another  
26 facility that is closed as a direct result of the COVID-19 public health  
emergency and such school or facility care is required for the individual to  
work;
- 27 e. The individual is unable to reach the place of employment because of a  
quarantine imposed as a direct result of the COVID-19 public health  
emergency;

28 <sup>16</sup> Pursuant to 20 CFR § 625.5, unemployment is considered a "direct result" of the pandemic where the employment is an immediate result of the COVID-19 public health emergency itself, and not the result of a longer chain of events precipitated or exacerbated by the pandemic.

- 1 f. The individual is unable to reach the place of employment because the
- 2 individual has been advised by a health care provider to quarantine due to
- 3 concerns related to COVID-19;
- 4 g. The individual was scheduled to commence employment and does not have
- 5 a job or is unable to reach the job as a direct result of the COVID-19 public
- 6 health emergency;
- 7 h. The individual has become the breadwinner or major support for a
- 8 household because the head of the household has died as a direct result of
- 9 COVID-19;
- 10 i. The individual has to quit his or her job as a direct result of COVID-19;
- 11 j. The individual's place of employment is closed as a direct result of the
- 12 COVID-19 public health emergency; or
- 13 k. The individual meets any additional criteria established by the US Secretary
- 14 of Labor for unemployment assistance under PUA.

15 15 USCA § 9021 (a)(3)(A)(ii). Additional criteria established by the US Secretary of Labor under  
16 item (k) above, includes:

- 17 (1) The individual is an independent contractor who is unemployed (total or
- 18 partial) or is unable or unavailable to work because of the COVID-19 public
- 19 health emergency has severely limited his or her ability to continue
- 20 performing the customary job;
- 21 (2) The individual has been denied continued unemployment benefits because
- 22 the individual refused to return to work or accept an offer of work at a
- 23 worksite that, in either instance, is not in compliance with local, state, or
- 24 national health and safety standards directly related to COVID-19. This
- 25 includes, but is not limited to, those related to facial mask wearing, physical
- 26 distancing measures, or the provision of personal protective equipment
- 27 consistent with public health guidelines;
- 28 (3) An individual provides services to an educational institution or educational
- service agency and the individual is unemployed or partially unemployed
- because of volatility in the work schedule that is directly caused by the
- COVID-19 public health emergency. This includes, but is not limited to,
- changes in schedules and partial closures; and
- (4) An individual is an employee and their hours have been reduced or the
- individual was laid off as a direct result of the COVID-19 public health
- emergency.

29 See Unemployment Insurance Program Letter 16-20 (April 5, 2020) and 16-20 Change 5  
30 (February 5, 2021).

31 Appellant did not meet the eligibility requirements, as stated above. Specifically,  
32 Appellant's application claims that her hours were reduced or laid off as a direct results of the  
33 COVID-19 public health emergency. However, upon further investigation, the employer stated

1 Appellant was hired as a part time employee to work approximately 15-20 hours per week. Upon  
2 review of the applicable time frame, Appellant continued to work her customary hours and  
3 received her customary pay. Further, during the period in question, Appellant worked more hours  
4 and pay than usual. Because Appellant received her customary pay and hours, the undersigned  
5 finds that Appellant's employment was not affected as a direct result of the COVID-19 qualifying  
6 reasons.

## 7 VII. DECISION

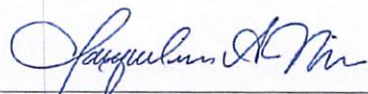
7 For the reasons stated above, it is ORDERED that:

- 8 1. The CNMI Department of Labor's Disqualifying Determination, dated December 5, 2023  
9 is **AFFIRMED**;
- 10 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of August 29,  
11 2021 to September 4, 2021.

12 If a party is aggrieved by this Order and would like to contest the decision, he or she must  
13 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The  
14 written request should be supported by legal, factual, or evidentiary reasons to reopen the  
15 decision. The written request must be submitted to the Administrative Hearing Office, either in  
16 person at 1331 Ascencion Drive, Capitol Hill Saipan MP 96950 or via email at  
17 hearing@dol.gov.mp.

18 In the event a request to reopen the decision is granted, the matter shall be scheduled for a  
19 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant  
20 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI  
21 Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,  
22 filings fees, and filing deadlines for judicial review will be as established by the applicable law  
23 and court rule.

24 So ordered this **18th** day of October, 2024.

25 

26 **Jacqueline A. Nicolas**  
27 Chief Administrative Hearing Officer  
28



## CNMI DEPARTMENT OF LABOR

### ADMINISTRATIVE HEARING OFFICE

*Elorene B. Ayuyu*  
PUA 23-0265

#### LIST OF ADMITTED EXHIBITS

1. A copy of Appellant's Application Snapshot, filed October 1, 2021
2. A copy of Appellant's Request for Reconsideration, dated February 10, 2022
  - a. Request for Reconsideration form (Page 2)
  - b. Request for Reconsideration form (Page 3)
  - c. Appellant's Disqualifying Determination, dated February 2, 2022
  - d. Department's receipt of Appellant's Request for Reconsideration
3. A copy of Appellant's Time Cards, dated August 22, 2021 to September 18, 2021.
4. A copy of Appellant's Pay Stub, dated September 23, 2021
5. A copy of Appellant's Verification of Employment, dated December 5, 2023.
6. A copy of Department's Disqualifying Determination, issued December 5, 2023
7. A copy of the Benefit Payment Control Unit's Email Communication
8. A copy of Department's Benefits Rights Information Handbook.
9. A copy of Appellant's Employment Verification, dated October 10, 2021.
10. A copy of Department's Email Communication with Employer, dated December 5, 2023 and September 3, 2024.