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

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COMMONWEALTH REGISTER

VOLUME 42
NUMBER 10
OCTOBER 28, 2020

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VOLUME 42
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TABLE OF CONTENTS

ADOPTED REGULATIONS

Public Notice of Certification and Adoption of Regulations
Division of Financial Services
Department of Finance **044153**

PROPOSED REGULATIONS

Public Notice of Proposed Amendments to the CHCC Chargemaster for Hospital, Dental and Bureau of Environmental Health Fees
Commonwealth Healthcare Corporation **044155**

Public Notice of Adoption of Proposed Rules and Regulations
Commonwealth Casino Commission **044176**

ORDERS

CAC Case No. 17-002-04(T)
Subject: Final Judgment
In the Matter of: CNMI Department of Labor Enforcement Section (Tinian) v. Bridge Investment Group LLC
Department of Labor **044276**

Labor Case No. 19-057
Secretary Appeal No. 20-002
Subject: Final Agency Decision
In the Matter of: Christopher R. Lilles v. Micronesia Resort, Inc.
Department of Labor **044279**

PUA Case No. 20-0002
Subject: Administrative Order
In the Matter of: Rogelio P. Bordon, Jr. v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044282**

PUA Case No. 20-0003
Subject: Administrative Order
In the Matter of: Pedro Litulumar Romolor v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044288**

PUA Case No. 20-0006
Subject: Administrative Order
In the Matter of: Peter D. Serafin v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044295**

PUA Case No. 20-0007
Subject: Administrative Order
In the Matter of: Orathai Suaiwan v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044301**

PUA Case No. 20-0008
Subject: Administrative Order
In the Matter of: Janice M. Lowe v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044302**

Labor Case No. 20-009
Subject: Sua Sponte Order of Dismissal
In the Matter of: MD Siful Islam v. Wilfredo D. Percil dba WRP Island Servitiks
Department of Labor **044308**

PUA Case No. 20-0009
Subject: Administrative Order
In the Matter of: Lorena M. Giovannoni v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044310**

PUA Case No. 20-0010
Subject: Administrative Order
In the Matter of: Zenaida A. Marcelo v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044316**

PUA Case No. 20-0011
Subject: Administrative Order
In the Matter of: Yangsong Z. Jackson v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044322**

Labor Case No. 20-011
Subject: Default Judgment
In the Matter of: Evangeline S. Dela Cruz v. Marianas Health Services Inc.
Department of Labor **044328**

PUA Case No. 20-0012
Subject: Administrative Order
In the Matter of: Marcelo V. Masilungan v. CNMI Department of Labor
Division of Employment Services-PUA
Department of Labor **044330**

PUA Case No. 20-0013
Subject: Administrative Order
In the Matter of: Gerardo D. Agustin v. CNMI Department of Labor
Division of Employment Services-PUA
Department of Labor **044336**

Labor Case No. 20-014
Subject: Sua Sponte Order of Dismissal
In the Matter of: Anowar Hossain v. Wilfredo D. Percil
dba WRP Island Servitiks
Department of Labor **044342**

PUA Case No. 20-014
Subject: Administrative Order
In the Matter of: Jayda M. Mendoza v. CNMI Department of Labor
Division of Employment Services-PUA
Department of Labor **044344**

Labor Case No. 20-015
Subject: Sua Sponte Order of Dismissal
In the Matter of: Mohammad Naymur Rahman v. Wilfredo D. Percil
Dba WRP Island Servitiks
Department of Labor **044354**

PUA Case No. 20-015
Subject: Administrative Order
In the Matter of: Roselyn Q. Creencia v. CNMI Department of Labor
Division of Employment Services-PUA
Department of Labor **044356**

PUA Case No. 20-0016
Subject: Administrative Order
In the Matter of: Meng Kit Chow v. CNMI Department of Labor
Division of Employment Services-PUA
Department of Labor **044363**

PUA Case No. 20-0017
Subject: Administrative Order
In the Matter of: Princess Grace C. Mulligan v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044367**

PUA Case No. 20-0018
Subject: Administrative Order
In the Matter of: Elvie B. Codia v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044372**

PUA Case No. 20-0019
Subject: Administrative Order
In the Matter of: Mary Ann G. Pascua v. CNMI Department of Labor Division of Employment Services-PUA
Department of Labor **044378**

Labor Case No. 20-028
Subject: Order of Dismissal
In the Matter of: Haisong Chen v. Imperial Pacific International (CNMI) LLC
Department of Labor **044384**

Labor Case No. 20-029
Subject: Sua Sponte Order of Dismissal
In the Matter of: Joseph B. Fresado v. Sagitarius Corporation
Department of Labor **044385**

Labor Case No. 20-029
Subject: Order Denying Request to Stay in the CNMI
In the Matter of: Joseph B. Fresado v. Sagitarius Corporation
Department of Labor **044386**

Office of the Secretary
Department of Finance
P.O. Box 5234 CHRB, Saipan MP 96950 TEL: (670) 664-1100 FAX: (670) 664-1115

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Department of Finance, Division of Financial Services

Regulations of the Department of Finance: Chapter 70-20 Financial Services Division

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Finance ("DOF"), HEREBY ADOPTS AS PERMANENT the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). The DOF announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted without modification or amendment.

PRIOR PUBLICATION: Prior publication in the COMMONWEALTH REGISTER as proposed regulations, Volume 42, Number 9, pp 044082-044113, of September 28, 2020.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None

AUTHORITY: These regulations are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC §2557 and 1 CMC §7407(e).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

Office of the Secretary
Department of Finance
P.O. Box 5234 CHRB, Saipan MP 96950 TEL: (670) 664-1100 FAX: (670) 664-1115

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 27th day of October, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.
Certified and ordered by:

David DLG. Atalig
Secretary of Finance

10/27/2020
Date

Filed and Recorded by:

Esther SN. Nesbitt
Commonwealth Registrar

10.28.2020
Date

Commonwealth Healthcare Corporation
Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE CHCC CHARGEMASTER FOR HOSPITAL, DENTAL, AND BUREAU OF ENVIRONMENTAL HEALTH FEES

INTENDED ACTION TO ADOPT THESE PROPOSED REVISIONS TO THE RULES AND REGULATIONS: The Commonwealth Healthcare Corporation (CHCC) intends to adopt as permanent the attached additional Chargemaster pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). The additional Chargemaster will become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Board of Trustees may prepare and adopt rules and regulations to assure delivery of quality health care and medical services and the financial viability of the Corporation that will best promote and serve its purposes. 3 CMC Section 2826(c).

THE TERMS AND SUBSTANCE: These are new or changes to fees.

THE SUBJECTS AND ISSUES INVOLVED: New and amended fees.

DIRECTIONS FOR FILING AND PUBLICATION: This Notice of Proposed Amendments to the Chargemaster 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 and will be codified at NMIAC Sections 140-10.8-101. (1 CMC § 9104(a)(1)) Copies are available upon request from Tiffany Sablan, Director of Revenue.

TO PROVIDE COMMENTS: Send or deliver your comments to Tiffany Sablan, Director of Revenue, tiffany.sablan@dph.gov.mp, *Attn: Amendments to the Chargemaster, Hospital, Dental and BEH Fees* at the above address, fax or email address, with the subject line "Amendments to the Chargemaster, Hospital, Dental and BEH Fees." Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

These proposed amendments to the Chargemaster, COVID-19 and Other Fees were approved by the CHCC Board of Trustees and the CHCC CEO.

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Submitted by:

ESTHER MUNA, CEO — Date: 10/22/20

LAURI OGUMORO, BOARD CHAIR — Date: 10/22/2020

Filed and Recorded by:

ESTHER SN. NESBITT
Commonwealth Register — Date: 10.27.20

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) 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, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 26th day of October, 2020.

EDWARD E. MANIBUSAN
Attorney General

HOSPITAL SERVICES							
CPT	MOD	Description	COVID Related?	Reason for Change	Proposed Price	Current Price	Comment
86769		SARS-COV-2 COVID-19 ANTIBODY	Y	NEW	$ 126.39		
86328		IA NFCT AB SARSCOV2 COVID19	Y	NEW	$ 135.69		
36907	26	TRLUML BALO ANGIOP CTR DIALYSIS SEG W/IMG S&I	N	REVISED	$ 459.39	$ 305.35	
73502	26	X-RAY EXAM HIP UNI 2-3 VIEWS	N	REVISED	$ 35.82	$ 35.61	
73502	TC	X-RAY EXAM HIP UNI 2-3 VIEWS	N	REVISED	$ 239.43	$ 109.71	
73521	26	X-RAY EXAM HIPS BI 2 VIEWS	N	REVISED	$ 35.82	$ 35.61	
73521	TC	X-RAY EXAM HIPS BI 2 VIEWS	N	REVISED	$ 336.24	$ 93.60	
10060	TC	DRAINAGE OF SKIN ABCESS	N	REVISED	$ 814.80	$ 342.30	
19281	26	PERQ DEVICE BREAST 1ST IMAG	N	REVISED	$ 374.08	$ 97.65	
19282	26	PERQ DEVICE BREAST EA IMAG	N	REVISED	$ 187.85	$ 106.60	
32405	26	PERCUT BX LUNG/MEDIASTINUM	N	REVISED	$ 336.77	$ 94.50	
32405	TC	PERCUT BX LUNG/MEDIASTINUM	N	REVISED	$ 1,624.36	$ 371.70	
37211	TC	THROMBOLYTIC ART THERAPY	N	REVISED	$ 8,744.90	$ 1,278.80	
75571	26	CT HEART NO CONTRAST QUANT EVAL CORONRY CALCIUM	N	NEW	$ 106.47		Radiology
75571	TC	CT HEART NO CONTRAST QUANT EVAL CORONRY CALCIUM	N	NEW	$ 590.08		Radiology
75572	26	CT HEART CONTRAST EVAL CARDIAC STRUCTURE&MORPH	N	NEW	$ 319.94		Radiology
75572	TC	CT HEART CONTRAST EVAL CARDIAC STRUCTURE&MORPH	N	NEW	$ 1,070.18		Radiology
75573	26	CT HRT CONTRST CARDIAC STRUCT&MORPH CONG HRT D	N	NEW	$ 467.36		Radiology
75573	TC	CT HRT CONTRST CARDIAC STRUCT&MORPH CONG HRT D	N	NEW	$ 615.80		Radiology
75574	26	CTA HRT CORNRY ART/BYPASS GRFTS CONTRST 3D POST	N	NEW	$ 436.56		Radiology
75574	TC	CTA HRT CORNRY ART/BYPASS GRFTS CONTRST 3D POST	N	NEW	$ 2,691.61		Radiology
43762	26	PERQ REPLACEMENT GTUBE NOT REQ REVJ GSTRST TRC	N	NEW	$ 781.19		
43762	TC	PERQ REPLACEMENT GTUBE NOT REQ REVJ GSTRST TRC	N	NEW	$ 704.70		
37226	26	FEM/POPL REVASC W/STENT	N	NEW	$ 1,981.70		
37226	TC	FEM/POPL REVASC W/STENT	N	NEW	$ 29,725.44		
64718	26	NEUROPLASTY; ULNAR NERVE AT ELBOW	N	NEW	$ 2,260.55		
64718	TC	NEUROPLASTY; ULNAR NERVE AT ELBOW	N	NEW	$ 5,158.05		
50240	26	NEPHRECTOMY PARTIAL	N	NEW	$ 4,224.78		
37221	26	ILIAC REVASC W/STENT	N	NEW	$ 1,524.06		
11102	26	TANGNTL BX SKIN SINGLE LES	N	NEW	$ 124.53		
36902	26	INTRO CATH DIALYSIS CIRCUIT	N	NEW	$ 752.76		
01924		ANESTHESIA THER IVNTL RADIOLOGICAL ARTERIAL	N	NEW	$ 222.80		
38531	26	OPEN BIOPSY/EXCISION INGUINOFEMORAL NODES	N	NEW	$ 1,389.93		
10005	TC	FNA BX W/US GDN 1ST LES	N	NEW	$ 1,830.03		
10006	TC	FNA BX W/US GDN EA ADDL	N	NEW	$ 1,209.13		
10007	TC	FNA BX W/FLUOR GDN 1ST LES	N	NEW	$ 2,300.51		
10008	TC	FNA BX W/FLUOR GDN EA ADDL	N	NEW	$ 1,600.15		
10009	TC	FNA BX W/CT GDN 1ST LES	N	NEW	$ 2,671.61		
10010	TC	FNA BX W/CT GDN EA ADDL	N	NEW	$ 1,796.28		
19000	TC	PUNCT ASP BRST CYST - INITIAL	N	NEW	$ 1,248.63		
37211	26	THROMBOLYTIC ART THERAPY	N	NEW	$ 1,402.24		
00410		ANESTH CORRECT HEART RHYTHM	N	NEW	$ 334.20		

DENTAL		
ADA CODE	**Description**	**Price**
0191	ORAL CANCER SCREENING	$ -
0270	BITEWING - SINGLE IMAGE	$ 15.00
1310	NUTRITIONAL COUNSELING	$ 20.00
1320	TOBACCO COUNSELING	$ 20.00
1352	PREVENTATIVE RESIN RESTORATION, PER TOOTH	$ 60.00
3120	PULP CAP - INDIRECT	$ 50.00
4321	PROVISIONAL SPLINTING - EXTRACORONAL	$ 50.00
4346	SCALING - MODERATE TO SEVERE INFLAMATION	$ 80.00
4355	FULL MOUTH DEBRIDEMENT	$ 100.00
4921	GINGIVAL IRRIGATION, PER QUADRANT	$ 25.00
7111	EXTRACTION, CORONAL REMNANTS, DECIDUOUS	$ 75.00
7261	CLOSURE OF SINUS PERFORMATION	$ 75.00
7270	TOOTH RE-IMPLANTATION OR STABILIZATION, TRAUMA	$ 100.00
7610	FRENULECTOMY	$ 75.00
8693	RECEMENT OR REBOND FIXED RETAINER	$ 50.00
9230	NITROUS OXIDE	$ 85.00

Bureau of Environmental Health

Section	Category	Description	Rate
101	**Food or Drink Service**	**Fixed establishment vending food/drink directly to the consumer**	
101.1	Restaurant, Fast Food, Bar & Grill, Snack Bar, Cafeteria, etc. (food processing	Seating Capacity: up to 20 chairs	$ 90.00
101.2		Seating Capacity:21- 50 chairs	$ 225.00
101.3		Seating Capacity:51- 75 chairs	$ 340.00
101.4		Seating Capacity:76-100 chairs	$ 450.00
101.5		Seating Capacity:100+ chairs	$ 500.00
101.6	Café/ Coffee Shop	Without complex food preparation (dispensing hot or cold beverage & prepakaged food items)	$ 120.00
101.7	Bars/tavern	Stand-alone, without food preparation and service	$ 120.00
101.8	Karaoke Lounge		$ 120.00
101.9	Night Club		$ 120.00
101.10	Kitchenette/ Catering	On-site and off-site catering operations. Does not include temporary food service operations, snack mobile, delivery vehicle	$ 140.00
102	**Retail Outlet**	**Fixed establishment dispensing goods directly to customer**	
102.1	Retail/ Convenient Store (Small)	Establishment less than 500 sq. feet in size,	$ 90.00
102.2	Retail/ Convenient Store (Medium)	Between 500- 1,000 sq. ft.	$ 180.00
102.3	Retail/ Convenient Store (Large)	Larger 1,000 sq. ft. area	$ 270.00
102.4	Gift Shop	Establishment vending specialty products: cosmetics, vitamins, supplements, food & drink	$ 90.00
103		**Fixed or mobile roadside or temporary event sale**	
103.1	Outdoor BBQ Stand	Stand-alone structure, equipped with waste disposal, running water, refrigeration and preparation area	$ 90.00
103.2	Sale of Refreshment	Sale of processed prepackage food, soup, salad & beverages	$ 90.00
103.3	Produced Vendor	Sale of raw vegetables	$ 90.00
103.4	Fish Vendor	Sale of freshly caught seafood	$ 90.00
103.5	Fish & Produce Vendor	Sale of fresh (within 24 hrs. harvest) vegetable & seafood	$ 90.00
103.6	Delivery Vehicle	Transport food/drink vehicle (operating in conjunction with permitted base operation)	$ 90.00
103.7	Snack Mobile	Mobile snack vehicle vending processed, prepackage food directly to customer .	$ 90.00
103.8	Temporary Food Service	Operates for a period of no more than 30 days in conjunction with a single event or celebration.	$ 90.00
104	**Sheltering**	**Room accommodation ranges from hotel, motel, resorts, villas, guesthouse, vacation homes, B&Bs**	
104.1	Hotels-Small	(1-50 rooms)	$ 140.00
104.2	Hotels-Medium	(51-100 rooms)	$ 150.00
104.3	Hotels-Large	(101 & Above)	$ 220.00
104.4	Motel	(1-40 rooms)	$ 140.00
104.5	Other room accomodations	Any structure or portion of any structure containing 4 or more guest rooms and intended for overnight or hourly accomodations.	$ 140.00
105	**Bulk storage/processing plant**		
105.1	Packing	Produce only	$ 90.00
105.2	Meat or other food processing	Meat Processing (Butcher & Packing) / Manufacture of Food	$ 280.00
105.3	Water & Ice manufacturing	Water/Ice Processing Plant	$ 280.00
105.4	Bakery	Other Manufactured Food (Bakery)	$ 140.00
105.5	Retail/wholesome storage	Warehousing and vending site, Dry/cold storage	$ 140.00
106	**Beautification Shop**	**Bodily services provided from fixed building**	
106.1	Barber Shop/Beauty Shop		$ 90.00

106.2	Massage Parlor		$ 90.00
106.3	Facial/manicure/pedicure		$ 90.00
106.4	Tattoo and/or body piercing shops		$ 140.00
107	**School, Health centers, Pharmaceutical drugs and devices outlets & public facility**		
107.1	Schools	Private or public operated pre, grade, middle, high & post HS	$ 220.00
107.2	Daycare Center	childcare facility	$ 220.00
107.3	Sanitariums		$ 140.00
107.4	Health Clinic	Private and public operated health centers	$ 140.00
107.5	Dental Clinic		$ 140.00
107.6	Pharmaceutical & devices outlet	Outlets dispensing OTC and prescription drugs and/or medical devices	$ 140.00
107.7	Optical Clinic		$ 140.00
107.8	Gymnasium, Indoor Recreation Center		$ 140.00
107.9	Sauna/spa/ bathing houses		$ 140.00
107.10	Funeral Establishment/ Crematorium/Cemetery	Activities related to the preparation and arrangements for the funeral, transportation, burial, cremation or other disposition of dead human bodies.	$ 90.00
108	**Other BEH permits, certificates Issuance and administrative services**	**Issuances of new, renew, duplicate or temporary permits or certificates**	
108.1	Food Handlers Certificate	Completes PE & FST.	$ 35.00
108.2	Duplicate Food Handlers Certificate	Copy for new employment, replacement. Certifcate fee for completion of food safety course with recognized & approved organization. Copy of course certification must be provided.	$ 15.00
108.3	Duplicate Sanitary Permit	50% of permit fee.	
108.4	Onsite Food Handlers Training	Minimum of 10 participants @ $400.00, additional participants @ $40.00 Per person	$ 400.00
108.5	Verification of Unwholesome food disposal	Require requester to submit to BEH office inventory listing. Disposal / per hour rate	$ 90.00
108.6	Ship Clearance	Commercial Cargo Vessel	$ 250.00
108.7	Deratting Certificate	Inspection of potential vector on vessel	$ 300.00
108.8	Cruise Ship Clearance	<4 food/drink outlets for guest with employee cafeteria	$ 600.00
108.9	BEH Administrative research or fieldwork verification	Administrative cost to validate and authenticate request information from key CHCC offices, from files or fieldwork verification.	$ 100.00
108.10	Translation	Language interpreter (non-English speaker) contracted by BEH office to moderate/facilitate 1 time communication/training. Minimum of 10 participants . Additional participants @ $30.00 per person.	$ 300.00
108.11	Follow-up inspection	Establishment request re-inspection to validate corrective actions taken; penalty fee for no-show/missed inspection schedule	$ 90.00
108.12	Expired Sanitary Permit	50% (half price) plus the cost of permit for the 1st month (after 10 days grace period); subsequent months will be full price of permit per month	
108.13	Noncompliant establishment	Resuming ceased operation; Tampering/removal of BEH official permits and grading cards; Operating without a sanitary permit	$ 560.00
108.14	Burial Permit	P.L 11-117- plot assignment Tanapag and Marpi Cemetery only	$ 50.00
108.15	Sea Burial	P.L. 11-117: Cost for 1 field supervisor and trainee to witness burial (up to 4hrs)	$ 400.00
108.16	Exhumation Permit	P.L. 11-117: Cost for 1 field supervisor and trainee to witness exhumation (up to 3hrs)	$ 300.00
109	**New fees, enforcement penalties**	**New promulgated fees for existing services**	
109.1	Copy & printing	$0.75 per page and $10.00 per hour for file research and document preparation (Open Government Act)	
109.2	Sanitary Permit Violations	Repeat offense up to $500.00, Subsequent offense- up to $1,000.00 for each offense	
109.3	Expired Food Handler Certificate	$500.00 for each employee with an additional $500.00 for the employer	
109.4	Waste Container Lid Requirement	P.L. 14-15: $100 for each violation and additional $50.00 for each day	

109.5	Expedited inspection	New, Renewal or Follow-up inspection within 24hrs or prior to the follow-up date noted on inspection report.	$ 500.00
109.6	Re-grading	Establishment management requests re-inpsection for re-grading purposes.	$ 250.00
109.7	Onsite training request	Accomodation for onsite food safety training at specified date and time (separate from weekly training schedule)	$ 100.00

Commonwealth Healthcare Corporation
Commonwealth gi Sangkattan na Islas Marianas Siha
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950

NUTISIAN PUPBLIKU NU I MANMAPROPONI NA TINULAIKA NU TODU CHCC CHARGEMASTER YAN NUEBU NA ÅPAS NU YAN ABANDONA YAN TINULAIKA NU TODU NMIAC SUBCHAPTER 140-10.8, PRUGRÅMAN MEDIKÅT YAN OTTRU SIHA NA KLÅSEN ÅPAS

AKSION NI MA INTENSIONA PARA U MA ADÅPTA ESTE SIHA I MANMAPROPONI NI MARIBISA SIHA PARA I AREKLAMENTU YAN REGULASION SIHA: I Commonwealth Healthcare Corporation (CHCC) ma intensiona para u ma adåpta kumu petmanienti i mañechettun siha nuebu na Chargemaster Åpas siha, kumu para i procedures nu i Åktun Administrative Procedure, 1 CMC 9104(a). I tinulaikan todu i Chargemaster yan i nuebu na Åpas BEH siha siempre ifektibu dies (10) dihas dispues di adåptasion yan pupblikasion giya i Rehistran Commonwealth. (1 CMC § 9105(b))

ATURIDÅT: I inetnon i trustees siha siña ma pripåra yan ma adåpta areklamentu yan regulasion siha para u mana siguru i linakngus nu i kuålidat na health care yan setbision Medikåt siha yan i financial viability nu i Corporation ya siempre u ma håtsa yan sietbe i intension siha. 3 CMC Seksiona 2826 (c).

I TEMA YAN SUSTÅNSIA I PALÅBRA SIHA: I nuebu na CHCC Chargemaster esta ma kumpli i tinulaika yan nuebu. I prisenti NMIAC Subchapter 140-10.8, Prugråman i Medikåt yan ottru siha na klåsen åpas siempre man ma abandona yan ma tulaika todu. Påtti sientu siempre para i nuebu na Chargemaster.

I SUHETU YAN MANERA NI SUMÅSAONAO SIHA: Todu i åpas CHCC siha man inafekta ginen esti i ma abandona yan tinulaika. Pot fåbot attan i nuebu na CHCC Chargemaster.

DIREKSION PARA U MA POLU YAN MA PUPBLIKA: Este na nutisia nu i man ma abandona yan tinulaika ni manmaproponi pot i Regulasion siha debi na u ma pupblika gi hålum i Rehistran Commonwealth gi hålum seksiona gi hilu' i manmaproponi yan nuebu na man ma adåpta na regulasion siha (1 CMC §9102(a)(1)) yan u mapega gi hålum man kumbieni na lugåt siha giya i civic center yan gi hålum Ufisinan gubietnu gi kada distritun senatorial parehu yan gi lingguåhi natibu. (1 CMC §9104 (a)(1)) Mana guahayi kopia siha yanggin man gågao ginen as Tiffany Sablan, Direktot nu i Revenue.

PARA U MAPRIBENIYI UPIÑON SIHA: Na hålom pat na hånao i upiñon mu guatu as Tiffany Sablan, Direktot i Revenue, tiffany.sablan@dph.gov.mp, Atension: Nuebu na åpas Chargemaster guåtu gi sanhilu na address, fax pat email address, yan i råyan suhetu"Nuebu na Åpas Chargemaster." I

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

upiñon man ma ekspekta gi hålum trenta (30) dihas ni tinatiyi gi fetcha nu i pupblikasion ni este na nutisia. Pot fabot na hålom i infotmasion, upiñon pat ågumientu siha. (1 CMC § 9104(a)(2)).

Esti i manmaproponi i abandona yan tinulaika ma aprueba ginen i CHCC Board of Trustees yan i CHCC Chief Executive Officer.

Nina hålum as: _____ 10/22/20
ESTHER L.MUNA — Fetcha
CHIEF EXECUTIVE OFFICER

_____ 10/22/2020
LAURI OGUMORO — Fetcha
BOARD CHAIR

Pine'lo yan Ninota as: _____ 10. 27. 20
ESTHER SN. NESBITT — Fetcha
Rehistran Commonwealth

Sigun i 1 CMC § 2153 § (Inaprueban regulasion siha ni Abugådu Hineråt na para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (hinentan inaprueba kumu fotma yan sufisienti ligåt ginen i CNMI Abugådu Hineråt yan debi na u ma pupblika, 1 CMC § 2153(f)(pupblikasion areklamentu yan regulasion siha).

Mafetch gi 26th diha October, 2020.

_____
EDWARD E. MANIBUSAN
Abugådu Hineråt

HOSPITAL SERVICES

CPT	MOD	Description	COVID Related?	Reason for Change	Proposed Price	Current Price	Comment
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73502	26	X-RAY EXAM HIP UNI 2-3 VIEWS	N	REVISED	$ 35.82	$ 35.61	
73502	TC	X-RAY EXAM HIP UNI 2-3 VIEWS	N	REVISED	$ 239.43	$ 109.71	
73521	26	X-RAY EXAM HIPS BI 2 VIEWS	N	REVISED	$ 35.82	$ 35.61	
73521	TC	X-RAY EXAM HIPS BI 2 VIEWS	N	REVISED	$ 336.24	$ 93.60	
10060	TC	DRAINAGE OF SKIN ABCESS	N	REVISED	$ 814.80	$ 342.30	
19281	26	PERQ DEVICE BREAST 1ST IMAG	N	REVISED	$ 374.08	$ 97.65	
19282	26	PERQ DEVICE BREAST EA IMAG	N	REVISED	$ 187.85	$ 106.60	
32405	26	PERCUT BX LUNG/MEDIASTINUM	N	REVISED	$ 336.77	$ 94.50	
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37211	TC	THROMBOLYTIC ART THERAPY	N	REVISED	$ 8,744.90	$ 1,278.80	
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75571	TC	CT HEART NO CONTRAST QUANT EVAL CORONRY CALCIUM	N	NEW	$ 590.08		Radiology
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7610	FRENULECTOMY	$ 75.00
8693	RECEMENT OR REBOND FIXED RETAINER	$ 50.00
9230	NITROUS OXIDE	$ 85.00

Bureau of Environmental Health

Section	Category	Description	Rate
101	**Food or Drink Service**	**Fixed establishment vending food/drink directly to the consumer**	
101.1	Restaurant, Fast Food, Bar & Grill, Snack Bar, Cafeteria, etc. (food processing	Seating Capacity: up to 20 chairs	$ 90.00
101.2		Seating Capacity:21- 50 chairs	$ 225.00
101.3		Seating Capacity:51- 75 chairs	$ 340.00
101.4		Seating Capacity:76-100 chairs	$ 450.00
101.5		Seating Capacity:100+ chairs	$ 500.00
101.6	Café/ Coffee Shop	Without complex food preparation (dispensing hot or cold beverage & prepakaged food items)	$ 120.00
101.7	Bars/tavern	Stand-alone, without food preparation and service	$ 120.00
101.8	Karaoke Lounge		$ 120.00
101.9	Night Club		$ 120.00
101.10	Kitchenette/ Catering	On-site and off-site catering operations. Does not include temporary food service operations, snack mobile, delivery vehicle	$ 140.00
102	**Retail Outlet**	**Fixed establishment dispensing goods directly to customer**	
102.1	Retail/ Convenient Store (Small)	Establishment less than 500 sq. feet in size,	$ 90.00
102.2	Retail/ Convenient Store (Medium)	Between 500- 1,000 sq. ft.	$ 180.00
102.3	Retail/ Convenient Store (Large)	Larger 1,000 sq. ft. area	$ 270.00
102.4	Gift Shop	Establishment vending specialty products: cosmetics, vitamins, supplements, food & drink	$ 90.00
103		**Fixed or mobile roadside or temporary event sale**	
103.1	Outdoor BBQ Stand	Stand-alone structure, equipped with waste disposal, running water, refrigeration and preparation area	$ 90.00
103.2	Sale of Refreshment	Sale of processed prepackage food, soup, salad & beverages	$ 90.00
103.3	Produced Vendor	Sale of raw vegetables	$ 90.00
103.4	Fish Vendor	Sale of freshly caught seafood	$ 90.00
103.5	Fish & Produce Vendor	Sale of fresh (within 24 hrs. harvest) vegetable & seafood	$ 90.00
103.6	Delivery Vehicle	Transport food/drink vehicle (operating in conjunction with permitted base operation)	$ 90.00
103.7	Snack Mobile	Mobile snack vehicle vending processed, prepackage food directly to customer .	$ 90.00
103.8	Temporary Food Service	Operates for a period of no more than 30 days in conjunction with a single event or celebration.	$ 90.00
104	**Sheltering**	**Room accommodation ranges from hotel, motel, resorts, villas, guesthouse, vacation homes, B&Bs**	
104.1	Hotels-Small	(1-50 rooms)	$ 140.00
104.2	Hotels-Medium	(51-100 rooms)	$ 150.00
104.3	Hotels-Large	(101 & Above)	$ 220.00
104.4	Motel	(1-40 rooms)	$ 140.00
104.5	Other room accomodations	Any structure or portion of any structure containing 4 or more guest rooms and intended for overnight or hourly accomodations.	$ 140.00
105	**Bulk storage/processing plant**		
105.1	Packing	Produce only	$ 90.00
105.2	Meat or other food processing	Meat Processing (Butcher & Packing) / Manufacture of Food	$ 280.00
105.3	Water & Ice manufacturing	Water/Ice Processing Plant	$ 280.00
105.4	Bakery	Other Manufactured Food (Bakery)	$ 140.00
105.5	Retail/wholesome storage	Warehousing and vending site, Dry/cold storage	$ 140.00
106	**Beautification Shop**	**Bodily services provided from fixed building**	
106.1	Barber Shop/Beauty Shop		$ 90.00

106.2	Massage Parlor		$ 90.00
106.3	Facial/manicure/pedicure		$ 90.00
106.4	Tattoo and/or body piercing shops		$ 140.00
107	**School, Health centers, Pharmaceutical drugs and devices outlets & public facility**		
107.1	Schools	Private or public operated pre, grade, middle, high & post HS	$ 220.00
107.2	Daycare Center	childcare facility	$ 220.00
107.3	Sanitariums		$ 140.00
107.4	Health Clinic	Private and public operated health centers	$ 140.00
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107.7	Optical Clinic		$ 140.00
107.8	Gymnasium, Indoor Recreation Center		$ 140.00
107.9	Sauna/spa/ bathing houses		$ 140.00
107.10	Funeral Establishment/ Crematorium/Cemetery	Activities related to the preparation and arrangements for the funeral, transportation, burial, cremation or other disposition of dead human bodies.	$ 90.00
108	**Other BEH permits, certificates Issuance and administrative services**	**Issuances of new, renew, duplicate or temporary permits or certificates**	
108.1	Food Handlers Certificate	Completes PE & FST.	$ 35.00
108.2	Duplicate Food Handlers Certificate	Copy for new employment, replacement. Certifcate fee for completion of food safety course with recognized & approved organization. Copy of course certification must be provided.	$ 15.00
108.3	Duplicate Sanitary Permit	50% of permit fee.	
108.4	Onsite Food Handlers Training	Minimum of 10 participants @ $400.00, additional participants @ $40.00 Per person	$ 400.00
108.5	Verification of Unwholesome food disposal	Require requester to submit to BEH office inventory listing. Disposal / per hour rate	$ 90.00
108.6	Ship Clearance	Commercial Cargo Vessel	$ 250.00
108.7	Deratting Certificate	Inspection of potential vector on vessel	$ 300.00
108.8	Cruise Ship Clearance	<4 food/drink outlets for guest with employee cafeteria	$ 600.00
108.9	BEH Administrative research or fieldwork verification	Administrative cost to validate and authenticate request information from key CHCC offices, from files or fieldwork verification.	$ 100.00
108.10	Translation	Language interpreter (non-English speaker) contracted by BEH office to moderate/facilitate 1 time communication/training. Minimum of 10 participants . Additional participants @ $30.00 per person.	$ 300.00
108.11	Follow-up inspection	Establishment request re-inspection to validate corrective actions taken; penalty fee for no-show/missed inspection schedule	$ 90.00
108.12	Expired Sanitary Permit	50% (half price) plus the cost of permit for the 1st month (after 10 days grace period); subsequent months will be full price of permit per month	
108.13	Noncompliant establishment	Resuming ceased operation; Tampering/removal of BEH official permits and grading cards; Operating without a sanitary permit	$ 560.00
108.14	Burial Permit	P.L 11-117- plot assignment Tanapag and Marpi Cemetery only	$ 50.00
108.15	Sea Burial	P.L. 11-117: Cost for 1 field supervisor and trainee to witness burial (up to 4hrs)	$ 400.00
108.16	Exhumation Permit	P.L. 11-117: Cost for 1 field supervisor and trainee to witness exhumation (up to 3hrs)	$ 300.00
109	**New fees, enforcement penalties**	**New promulgated fees for existing services**	
109.1	Copy & printing	$0.75 per page and $10.00 per hour for file research and document preparation (Open Government Act)	
109.2	Sanitary Permit Violations	Repeat offense up to $500.00, Subsequent offense- up to $1,000.00 for each offense	
109.3	Expired Food Handler Certificate	$500.00 for each employee with an additional $500.00 for the employer	
109.4	Waste Container Lid Requirement	P.L. 14-15: $100 for each violation and additional $50.00 for each day	

109.5	Expedited inspection	New, Renewal or Follow-up inspection within 24hrs or prior to the follow-up date noted on inspection report.	$ 500.00
109.6	Re-grading	Establishment management requests re-inpsection for re-grading purposes.	$ 250.00
109.7	Onsite training request	Accomodation for onsite food safety training at specified date and time (separate from weekly training schedule)	$ 100.00

Commonwealth Healthcare Corporation
Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950

ARONGORONGOL TOULAP REEL POMMWOL SIIWEL NGÁLI ALONGAL AAR CHCC CHARGEMASTER ME FFÉL BWULASIYOL HOSPITAL, DENTAL AND BEH FEES

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL SIIWEL KAL NGÁLI ALLÉGH ME MWÓGHUT: Commonwealth Healthcare Corporation (CHCC) re mángemángil rebwe adóptááli bwe ebwe llégh ló ffééról mille e appasch bwe ffél Listal Alillis ikka re ayoorai ngáliir Toulap ngáre Chargemaster me COVID-19 and Other Fees, sángi mwóghutughutúl Administrative Procedures Act, 1 CMC § 9104(a). Siiwel ngáli alongal Chargemaster me ffél Óbwóssul BEH ebwe bwunguló seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Board-il Trustees reel rebwe ammwela me adóptááli allégh me mwóghutughut bwe ebwe alúghúw ghatchúl health care me alillisil medical me financial viability reel Corporation bwe ebwe ghatch me ffééró mwóghutughutúl. 3 CMC Tálil 2826(c).

KKAPASAL ME AWEEWEL: Ra takkal siiweli me ffééró sefááliy ffél CHCC Chargemaster, fengál me Óbwóssul Bwulasiyol.

KKAPASAL ME ÓUTOL: Alongal óbwóssul CHCC e siiweli mereel mille re bwughi sefááliy me siiwelil. Amwuri Ffél CHCC Chargemaster me Óbwóss mereel Bwulasiyol.

AMMWELIL REEL AKKATÉÉWOWUL ME ARONGOWOWUL: Arongorongol Pommwol mille re Bwughi SefáAliy me Liiweli reel Mwóghutughut ebwe akkatééwow me llól Commonwealth Register llól tálil ffél me Pommwol mwóghutughut ikka ra adóptáálil (1 CMC § 9102(a)(1)) me appaschetá llól civic center me bwal llól Bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch y will be codified at NMIAC Sections 140-10.8-101 and 140-10.8-201. (1 CMC § 9104(a)(1)) Emmwelil ubwe bweibwogh pappidil yeel tingór ngáli Tiffany Sablan, Direkktoodil Revenue.

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Tiffany Sablan, Direkktoodil Revenue, tiffany.sablan@dph.gov.mp, *Attn: Amendments to Chargemaster me Hospital, Dental and BEH Fees* reel féléfél iye e lo weiláng, fax ngáre email address, ebwe lo wóól subject line bwe "Amendments to Chargemaster Hospital, Dental and BEH Fees ." Ischil kkapas ebwe toolong llól eliigh ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre angiingi. (1 CMC § 9104(a)(2)).

Pommwol milikka re bwughi sefááliy me siiweli aa átirow sángi CHCC Board-il trustees me CHCC Chief Executive Officer.

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Isáliyalong: _____ 10/22/20
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_____ 10/22/2020
LAURI OGUMORO, BOARD CHAIR Ráál

Ammwelil: _____ 10.27.20
ESTHER SN. NESBITT Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal AG reel mwóghutughut kkal bwe aa ffil reel ffééról) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel Pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me átirowa bwe aa llégh ló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikkilátiw wóól 26th ráálil October, 2019.

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EDWARD E. MANIBUSAN
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107.9	Sauna/spa/ bathing houses		$ 140.00
107.10	Funeral Establishment/ Crematorium/Cemetery	Activities related to the preparation and arrangements for the funeral, transportation, burial, cremation or other disposition of dead human bodies.	$ 90.00
108	**Other BEH permits, certificates Issuance and administrative services**	**Issuances of new, renew, duplicate or temporary permits or certificates**	
108.1	Food Handlers Certificate	Completes PE & FST.	$ 35.00
108.2	Duplicate Food Handlers Certificate	Copy for new employment, replacement. Certifcate fee for completion of food safety course with recognized & approved organization. Copy of course certification must be provided.	$ 15.00
108.3	Duplicate Sanitary Permit	50% of permit fee.	
108.4	Onsite Food Handlers Training	Minimum of 10 participants @ $400.00, additional participants @ $40.00 Per person	$ 400.00
108.5	Verification of Unwholesome food disposal	Require requester to submit to BEH office inventory listing. Disposal / per hour rate	$ 90.00
108.6	Ship Clearance	Commercial Cargo Vessel	$ 250.00
108.7	Deratting Certificate	Inspection of potential vector on vessel	$ 300.00
108.8	Cruise Ship Clearance	<4 food/drink outlets for guest with employee cafeteria	$ 600.00
108.9	BEH Administrative research or fieldwork verification	Administrative cost to validate and authenticate request information from key CHCC offices, from files or fieldwork verification.	$ 100.00
108.10	Translation	Language interpreter (non-English speaker) contracted by BEH office to moderate/facilitate 1 time communication/training. Minimum of 10 participants . Additional participants @ $30.00 per person.	$ 300.00
108.11	Follow-up inspection	Establishment request re-inspection to validate corrective actions taken; penalty fee for no-show/missed inspection schedule	$ 90.00
108.12	Expired Sanitary Permit	50% (half price) plus the cost of permit for the 1st month (after 10 days grace period); subsequent months will be full price of permit per month	
108.13	Noncompliant establishment	Resuming ceased operation; Tampering/removal of BEH official permits and grading cards; Operating without a sanitary permit	$ 560.00
108.14	Burial Permit	P.L 11-117- plot assignment Tanapag and Marpi Cemetery only	$ 50.00
108.15	Sea Burial	P.L. 11-117: Cost for 1 field supervisor and trainee to witness burial (up to 4hrs)	$ 400.00
108.16	Exhumation Permit	P.L. 11-117: Cost for 1 field supervisor and trainee to witness exhumation (up to 3hrs)	$ 300.00
109	**New fees, enforcement penalties**	**New promulgated fees for existing services**	
109.1	Copy & printing	$0.75 per page and $10.00 per hour for file research and document preparation (Open Government Act)	
109.2	Sanitary Permit Violations	Repeat offense up to $500.00, Subsequent offense- up to $1,000.00 for each offense	
109.3	Expired Food Handler Certificate	$500.00 for each employee with an additional $500.00 for the employer	
109.4	Waste Container Lid Requirement	P.L. 14-15: $100 for each violation and additional $50.00 for each day	

109.5	Expedited inspection	New, Renewal or Follow-up inspection within 24hrs or prior to the follow-up date noted on inspection report.	$ 500.00
109.6	Re-grading	Establishment management requests re-inpsection for re-grading purposes.	$ 250.00
109.7	Onsite training request	Accomodation for onsite food safety training at specified date and time (separate from weekly training schedule)	$ 100.00

Commonwealth of the Northern Mariana Islands
COMMONWEALTH CASINO COMMISSION
Edward DeLeon Guerrero, Chairman
Commonwealth Casino Commission
P.O. Box 500237, Saipan, MP 96950
Tel: 233-1857 / Fax: 233-1856
Email: info@cnmicasinocommission.com

PUBLIC NOTICE OF ADOPTION OF PROPOSED RULES AND REGULATIONS FOR THE COMMONWEALTH CASINO COMMISSION

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Casino Commission ("the Commission") intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). These proposed regulations were considered at the Commission's meeting on or about October 22, 2020. Once finally adopted, the Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b)).

AUTHORITY: The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Public Laws 18-56 and Public Law 19-24, including but not limited to 4 CMC §2314 and §2316. Specifically including, but not limited to 4 CMC §2314(b)(2),(3) and (5)-(8), and §2316(a).

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations amend the following Regulations (generally in the following ways):

1. *§175-10.1-040(h)* (fix spelling error); *§175-10.1-040(q)(3)* (expands definition)
2. *§175-10.1-040(t)* (renames license); *§175-10.1-050(n)* (amends definition)
3. *§175-10.1-050* (duplicate renumbered to 055); *§175-10.1-105(h)* (change name)
4. *§175-10.1-110(c)* (pr)(supersede old bylaws); *§175-10.1-115(b)(2)* (punctuation)
5. *§175-10.1-115(f)* (adds explanation); *§175-10.1-125(d)* (adds meeting flexibility)
6. *§175-10.1-135(b)(2), (c)* (adds registrant); *§175-10.1-155(a)-(e)* (adds registrant and adds may)
7. *§175-10.1-205(e)-(f), (i)* (pr) (adds reporting requirement)
8. *§175-10.1-305(a)-(b)* (renames license); *§175-10.1-325* (adds registration)
9. *§175-10.1-310(a)-(b), (d)-(f)* (renames, adds count rooms, and prohibits disclosures)

10. *§175-10.1-425(a)-(c)* (amends withdrawal requirements); *§175-10.1-501* (renames)
11. *§175-10.1-505(b)-(d), (f)* (renames); *§175-10.1-510(b)-(c)* (renames)
12. *§175-10.1-515(a), (d)* (renames); *§175-10.1-525(a)-(c)* (renames)
13. *§175-10.1-530* (renames); *§175-10.1-550(b)* (renames)
14. *§175-10.1-560(d)* (clarifies); *§175-10.1-565(c), (d), (f)* (renames)
15. *§175-10.1-570(b)* (pr)(payment reports); *§175-10.1-580(b)* (renames)
16. *§175-10.1-590(b)* (delete surplussage); *§175-10.1-595(b)* (clarifies)
17. *§175-10.1-601 - §175-10.1-675* (streamline License Agreement compliance)
18. *§175-10.1-705(c)* (adds count room); *§175-10.1-805(c)* (change name)
19. *§ 175-10.1-905* (change name); *§175-10.1-920(b)(4)* (change name)
20. *§175-10.1-925(a)* (adds registration); *§175-10.1-930* (changes name/registration)
21. *§175-10.1-1015(c)* (clarification); *§175-10.1-1035(b)* (clarification)
22. *§175-10.1-1120* (changes names); *§175-10.1-1130(c)* (increases time limit)
23. *§175-10.1-1201* (changes name); *§175-10.1-1215* (changes names/registrants)
24. *§175-10.1-1225(a)-(d)* (clarifies fees); *§175-10.1-1301(f)* (amends definition)
25. *§175-10.1-1305(a)-(e)* (changes names/registrations and adds licensure exemption)
26. *§175-10.1-1310(b)-(e)* and *§175-10.1-1315* (changes names/registrations)
27. *§175-10.1-1320(b)* (adds registration); *§175-10.1-1325(a)-(b)* (adds registration)
28. *§175-10.1-1330(a)* (adds registration); *§175-10.1-1360* (adds registration)
29. *§175-10.1-1365(d)-(e)* (adds registration and deletes provisional vendor licensure)
30. *§175-10.1-1375* (changes name); *§175-10.1-1385(a); (d)-(g)* (adds Chairman)
31. *§175-10.1-1390(a)-(c)* (adds registration and amends exemption)
32. *§175-10.1-1525(b)* (adds Chairman); *§175-10.1-1530* (grammar)
33. *§175-10.1-1535* (pr)(limitations); *§175-10.1-1610(b)-(c)* (clarifies)
34. *§175-10.1-1825* (adds registration); *§175-10.1-1835(d)* (pr)(punish false statement)
35. *§175-10.1-1865* (pr)(require working capital) *§175-10.1-1910(c)* (amend timelines)
36. *§175-10.1-2001(b)(5)(i), (viii), (e)* (grammar); *§175-10.1-2020(c)* (clarify)
37. *§175-10.1-2305(b)* (amend certification); *§175-10.1-2310(a)* (add registrant)
38. *§175-10.1-2325(e)* (clarify); *§175-10.1-2405(a)(2)* (pr)(pandemic closure)
39. *§175-10.1-2510(a)-(b)* (amend definitions); *§175-10.1-2540* (amend offense)
40. *§175-10.1-2525(c)* (pr)(continuing violations) *§175-10.1-2560* (pr)(settlements)

41. *§175-10.1-2545(a)-(c), (e)* (amend penalties); *§175-10.1-2605(e), (h)(i)* (pr)(junkets)
42. *§175-10.1-2635(d)* (pr)(payment reports); *§175-10.1-2640(a)-(c)* (amend fees)
43. *§175-10.1-2905(a)-(c)* (reduce exclusion); *§175-10.1-2910* (amend exclusion list)
44. *§175-10.1-2915(a)-(b)* (amend exclusion list); *§175-10.1-2925(a)-(b)* (same)
45. *§175-10.1-2935(a)-(c)* (reduce exclusion); *§175-10.1-2940* (amend exclusion)
46. *§175-10.1-2945(a), (e)* (same); *§175-10.1-2960* (amend duties)
47. *§175-10.1-2965(a)-(c), (e), (g)* (amend procedures); *§175-10.1-3001(a)* (clarifies)
48. *§175-10.1-3005* (clarifies patron dispute language)

THE TERMS AND SUBSTANCE: Among other things, the attached Rules and Regulations: rename the Casino Service Provider License; provide for casino non gaming vendor registration: streamline regulations for compliance with Casino License Agreement; provide minimum working capital requirements; fix spelling grammar and punctuation errors; addresses continuing violations; amend definitions; amends time limits; redefines major offense; amends the self-exclusion list duration and duties; allows for stipulated agreements; and requires various payment/collection reports.

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; the notice shall be both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

TO PROVIDE COMMENTS: Send or deliver your comments to Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, at the above address, fax or email address, with the subject line "New Casino Commission Rules and Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)). The Commonwealth Casino Commission approved the attached Regulations on or about 10/22/2020.

Submitted by: Edward C. DeLeon Guerrero — 10/22/2020
EDWARD C. DELEON GUERRERO — Date
Chairman of the Commission

Received and Filed by: _____ 10/26/2020
MS. MATHILDA A. ROSARIO — Date
Special Assistant for Administration

Filed and
Recorded by: _____ 10.28.2020
ESTHER SN. NESBITT — Date
Commonwealth Registrar

[Attorney General's Approval follows]

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) 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, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 28 day of October, 2020.

_____
Hon. EDWARD MANIBUSAN
Attorney General

Commonwealth gi Sangkattan na Islas Marianas
COMMONWEALTH KUMISION HUEGUN SALÅPPI'
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NUTISIAN PUPBLIKU PUT I ADÅPTASION I MANMAPROPONI NA AREKLAMENTU YAN REGULASION PARA I COMMONWEALTH KUMISION HUEGUN SALÅPPI'

I AKSION NI MA'INTENSIONA PARA U ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Commonwealth gi Sangkattan na Islas Mariånas, Commonwealth Kumision Huegun Salåppi' ("i Kumision") ha intensiona para u adåpta kumu petmanienti na regulasion i mañechettun Manmaproponi na Regulasion siha, sigun gi manera siha gi Åktun Administrative Procedures gi, 1 CMC § 9104(a). Esti i manmaproponi na regulasion siha manmakunsidera gi huntan-ñiha i Kumision gi pat kåsi gi Oktubri 22, 2020. Insigidas manma'adåpta, i Regulasion siempri umefiktibu gi dies (10) dihas dispues di adåptasion yan pupblikasion gi halum i Rehistran Commonwealth. (1 CMC § 9105(b)).

ÅTURIDÅT: I Kumision gai åturidåt para u adåpta i areklamentu yan i regulasion siha ni para u kunsigi mo'na i obligasion yan i responsabilidåt-ñiha siha sigun para Lai Pupbliku 18-56 yan Lai Pupbliku 19-24, ingklusu låo ti chi'ña para 4 CMC §2314 yan §2316. Ispesifiku ingkluklusu, låo ti chi'ña para 4 CMC §1214(b)(2),(3) yan (5)-(8), yan §2316(a).

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA: Esti siha na areklamentu yan regulasion inamenda i tinattiyi na Regulasion siha (otdinåriu gi halum tinattiyi na manera siha):

1. *§175-10.1-040(h)* (fix spelling error); *§175-10.1-040(q)(3)* (expands definition)
2. *§175-10.1-040(t)* (renames license); *§175-10.1-050(n)* (amends definition)
3. *§175-10.1-050* (duplicate renumbered to 055); *§175-10.1-105(h)* (change name)
4. *§175-10.1-110(c)* (pr)(supersede old bylaws); *§175-10.1-115(b)(2)* (punctuation)
5. *§175-10.1-115(f)* (adds explanation); *§175-10.1-125(d)* (adds meeting flexibility)
6. *§175-10.1-135(b)(2), (c)* (adds registrant); *§175-10.1-155(a)-(e)* (adds registrant and adds may)
7. *§175-10.1-205(e)-(f), (i)* (pr) (adds reporting requirement)
8. *§175-10.1-305(a)-(b)* (renames license); *§175-10.1-325* (adds registration)

9. *§175-10.1-310(a)-(b), (d)-(f)* (renames, adds count rooms, and prohibits disclosures)
10. *§175-10.1-425(a)-(c)* (amends withdrawal requirements); *§175-10.1-501* (renames)
11. *§175-10.1-505(b)-(d), (f)* (renames); *§175-10.1-510(b)-(c)* (renames)
12. *§175-10.1-515(a), (d)* (renames); *§175-10.1-525(a)-(c)* (renames)
13. *§175-10.1-530* (renames); *§175-10.1-550(b)* (renames)
14. *§175-10.1-560(d)* (clarifies); *§175-10.1-565(c), (d), (f)* (renames)
15. *§175-10.1-570(b)* (pr)(payment reports); *§175-10.1-580(b)* (renames)
16. *§175-10.1-590(b)* (delete surplussage); *§175-10.1-595(b)* (clarifies)
17. *§175-10.1-601 - §175-10.1-675* (streamline License Agreement compliance)
18. *§175-10.1-705(c)* (adds count room); *§175-10.1-805(c)* (change name)
19. *§ 175-10.1-905* (change name); *§175-10.1-920(b)(4)* (change name)
20. *§175-10.1-925(a)* (adds registration); *§175-10.1-930* (changes name/registration)
21. *§175-10.1-1015(c)* (clarification); *§175-10.1-1035(b)* (clarification)
22. *§175-10.1-1120* (changes names); *§175-10.1-1130(c)* (increases time limit)
23. *§175-10.1-1201* (changes name); *§175-10.1-1215* (changes names/registrants)
24. *§175-10.1-1225(a)-(d)* (clarifies fees); *§175-10.1-1301(f)* (amends definition)
25. *§175-10.1-1305(a)-(e)* (changes names/registrations and adds licensure exemption)
26. *§175-10.1-1310(b)-(e)* and *§175-10.1-1315* (changes names/registrations)
27. *§175-10.1-1320(b)* (adds registration); *§175-10.1-1325(a)-(b)* (adds registration)
28. *§175-10.1-1330(a)* (adds registration); *§175-10.1-1360* (adds registration)
29. *§175-10.1-1365(d)-(e)* (adds registration and deletes provisional vendor licensure)
30. *§175-10.1-1375* (changes name); *§175-10.1-1385(a); (d)-(g)* (adds Chairman)
31. *§175-10.1-1390(a)-(c)* (adds registration and amends exemption)
32. *§175-10.1-1525(b)* (adds Chairman); *§175-10.1-1530* (grammar)
33. *§175-10.1-1535* (pr)(limitations); *§175-10.1-1610(b)-(c)* (clarifies)
34. *§175-10.1-1825* (adds registration); *§175-10.1-1835(d)* (pr)(punish false statement)
35. *§175-10.1-1865* (pr)(require working capital) *§175-10.1-1910(c)* (amend timelines)
36. *§175-10.1-2001(b)(5)(i), (viii), (e)* (grammar); *§175-10.1-2020(c)* (clarify)
37. *§175-10.1-2305(b)* (amend certification); *§175-10.1-2310(a)* (add registrant)
38. *§175-10.1-2325(e)* (clarify); *§175-10.1-2405(a)(2)* (pr)(pandemic closure)
39. *§175-10.1-2510(a)-(b)* (amend definitions); *§175-10.1-2540* (amend offense)

40. *§175-10.1-2525(c)* (pr)(continuing violations) *§175-10.1-2560* (pr)(settlements)
41. *§175-10.1-2545(a)-(c), (e)* (amend penalties); *§175-10.1-2605(e), (h)(i)* (pr)(junkets)
42. *§175-10.1-2635(d)* (pr)(payment reports); *§175-10.1-2640(a)-(c)* (amend fees)
43. *§175-10.1-2905(a)-(c)* (reduce exclusion); *§175-10.1-2910* (amend exclusion list)
44. *§175-10.1-2915(a)-(b)* (amend exclusion list); *§175-10.1-2925(a)-(b)* (same)
45. *§175-10.1-2935(a)-(c)* (reduce exclusion); *§175-10.1-2940* (amend exclusion)
46. *§175-10.1-2945(a), (e)* (same); *§175-10.1-2960* (amend duties)
47. *§175-10.1-2965(a)-(c), (e), (g)* (amend procedures); *§175-10.1-3001(a)* (clarifies)
48. *§175-10.1-3005* (clarifies patron dispute language)

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: Entri otru siha, i mañechettun na Areklamentu yan Regulasion siha: "rename" i "Casino Service Provider License; pribeni para rehistrasion "casino non gaming vendor: "streamline" regulasion siha para "compliance" yan i Kuntråtan Lisensian Huegun Salåppi'; pribeni nisisidåt "minimum working capital"; na'måulik gramatika dilitrea yan linachi "punctuation"; "addresses continuing violations"; amenda siha definisión; amenda siha i chi'ora; "redefines major offense"; amenda siha i "self-exclusion" listan durão yan ubligasion siha; sedi para "stipulated" na kuntråta; yan "requires various payment/collection reports."

DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA: Esti i manmaproponi na Regulasion siha debi na u mapupblika gi halum i Rehistran Commonwealth gi halum i seksiona ni maproponi na regulasion siha yan nuebu na ma'adåpta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi halum i kumbinienti na lugåt siha gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, i nutisia debi na parehu Inglis yan i prinsipåt na lingguåhin natibu. (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hånåo pat intrega i upiñon-mu guatu gi Commonwealth Kumision Huegun Salåppi', *Attn: Nuebu na Areklamentu yan Regulasion Kumision Huegun Salåppi' Siha*, gi sanhilu' na address, fax pat email address, yan i råyan suhetu "Nuebu na Areklamentu yan Regulasion Kumision Huegun Salåppi' Siha". I upiñon siha debi na u fanhålum gi halum 30 dihas ginin i fetchan pupblikasion esti na nutisia. Put fabot na'hålum iyo-mu data, views, pat kinentestan kinentra siha. (1 CMC § 9104(a)(2)). I Commonwealth Kumision Huegun Salåppi' ma'aprueba i mañechettun na Regulasion siha gi pat kåsi gi 10/22/2020.

Nina'hålum as: _____ 10/22/2020
EDWARD C. DELEON GUERRERO Fetcha
Kabesiyun i Kumision

Rinisibi yan pine'lu as: _____ 10/26/2020
MATHILDA A. ROSARIO Fetcha
Ispisiåt na Ayudånti para i Atministration

Pine'lu yan
Ninota as: _____ 10.28.2020
ESTHER SN. NESBITT Fetcha
Rehistran Commonwealth

[I Heneråt Abugådu ha aprueba i mantinattiyi siha]

Sigun i 1 CMC § 2153(e) (I Abugådu Heneråt ha aprueba i regulasion siha na para u macho´gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma´aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion areklamentu yan regulasion siha).

Mafetcha gi diha 28, gi October, 2020.

_____
Hon. EDWARD MANIBUSAN
Heneråt Abugådu

Commonwealth Téél Falúw Kka Efáng Llól Marianas
COMMONWEALTH CASINO COMMISSION
Edward DeLeon Guerrero, Chairman
Commonwealth Casino Commission
P.O. Box 500237, Saipan, MP 96950
Tel: 233-1857 / Fax: 233-1856
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ARONGORONGOL TOULAP REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT NGÁLI COMMONWEALTH CASINO COMMISSION

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT KKAL: Commonwealth Téél Falúw kka Efáng llól Marianas, Commonwealth Casino Commission ("Commission we") re mángemángil rebwe adóptáali Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ra amwuri pommwol mwóghutughut kkal igha re yéélágh wóól Sarobwél 22. 2020. Mwiril aar adóptáali, ebwe bwunguló Mwóghutughut seigh ráál mwiril aal adóptáali me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b)).

BWÁNGIL: Eyoor bwángil Commission reel rebwe adóptáali allégh me mwóghutughut llól lemelem sángi Alléghúl Toulap 18-56 me Alléghúl Toulap 19-24, ebwal schuulong nge ese yoor pilil ngáli 4 CMC §2314 me §2316. E ffat bwe ebwal schuulong, nge ese yoor pilil ngáli 4 CMC §3149b)(2), (3) me (5)-(8), me §2316(a).

KKAPASAL ME ÓUTOL: Allégh me mwóghutughut e liiweli Mwóghutughut ikka e amwirimwiritiw (e yeisú):

1. *§175-10.1-040(h) (awelaló isch we ese wel); §175-10.1-040(q)(3) (aschéélapay weewel)*
2. *§175-10.1-040(t) aita sefááliy license); §175-10.1-050(n) (liiweli weewel)*
3. *§175-10.1-50 ("duplicate renumbered to 55"); §175-10.1-105(h) (siiweli iit)*
4. *§175-10.1-110(c) (pr)("supersede old bylaws"); §175-10.1-115(b)(2) ("punctuation")*
5. *§175-10.1-115(f) (aschuulong aweewel); §175-10.1-125(d) ("adds meeting flexibility")*
6. *§ 175-10.1-135(b)(2), (c) (schuulong "registrant"); §175-10.1-125(d) ("adds registrant and adds may")*
7. *§175-10.1-205(e)-(f), (i) (pr) (aschuulong "reporting requirement")*
8. *§175-10.1-305(a)-(b) (aita sefááliy "license"); §175-10.1-325 (aschuulong "registration")*

9. *§175-10.1-310(a)-(b), (d)-(f) ("renames, add count rooms, and prohibits disclosures")*
10. *§175-10.1-425(a)-(c) (liiweli withdrawal requirements"); §175-10.1-501 ("renames")*
11. *§175-10.1-505(b)-(d), (f) ("renames"); §175-10.1-510(b)-(c) ("renames")*
12. *§175-10.1-515(a), (d) ("renames"); §175-10.1-525(a)-(c) ("renames")*
13. *§175-10.1-530 ("renames"); §175-10.1-550(b) ("renames")*
14. *§175-10.1-560(d) (ebwe ffat); §175-10.1-565(c), (d), (f) ("renames")*
15. *§175-10.1-570(b) (pr)("payment reports"); §175-10.1-580(b) ("renames")*
16. *§175-10.1-590(b) ("delete surplusage"); §175-10.1-595(b) (ebwe ffat)*
17. *§175-10.1-601 - §175-10.1-675 ("streamline License Agreement compliance")*
18. *§175-10.1-705(c) (aschuulong fitoow katto); §175-10.1-805(c) (siiweli iit)*
19. *§175-10.1-905 (siiweli iit); §175-10.1-920(b)(4) (siiweli iit)*
20. *§175-10.1-925(a) (aschuulong "registration"); §175-10.1-930 (siiweli iit/"registration")*
21. *§175-10.1-1015(c) ("clarification"); §175-10.1-1035(b) ("clarification")*
22. *§175-10.1-1120 (siiweli iit); §175-10.1-1130(c) ("increase time limit")*
23. *§175-10.1-1201 (siiweli iit); §175-10.1-1215 (siiweli iit/"registrants")*
24. *§175-10.1-1225(a)-(d) (ebwe ffat óbwóss); §175-10.1-1301 (f) (liiweli weewel)*
25. *§175-10.1-1305(a)-(e) me §175-10.1-1315 (siiweli iit/"registrations" me aschuulong "licensure exemption")*
26. *§175-10.1-1310(b)-(e) me §175-10.1-1315 (siiweli iit/"registrations")*
27. *§175-10.1-1320(b) (aschuulong "registration"); §175-10.1-1325(a)-(b) (aschuulong "registrations")*
28. *§175-10.1-1330(a) (aschuulong "registrations"); §175-10.1-1360 (aschuulong "registration")*
29. *§175-10.1-1365(d)-(e) (aschuulong "registration" me amóyló "provisional vendor licensure")*
30. *§175-10.1-1375 (siiweli iit); §175-10.1-1385(a); (d)-(g) (aschuulong "Chairman")*
31. *§175-10.1-1390(a)-(c) (aschuulong "registration" me liiweli "exemption)*
32. *§175-10.1-1525(b) (aschuulong "Chairman"); §175-10.1-1530 ("grammar")*
33. *§175-10.1-1535 (pr) ("limitations"); §175-10.1-1610(b)-(c) (ebwe ffat)*
34. *§175-10.1-1825 (aschuulong "registration"); §175-10.1-1835(d) (pr) ("punish false statement")*
35. *§175-10.1-1865 (pr) ("require working capital") §175-10.1-1910(c) (liiweli "timelines")*
36. *§175-10.1-2001(b)(5)(i), (viii), (e) ("grmmar"); §175-10.1-2020(c) (ebwe ffat)*
37. *§175-10.1-2305(b) (liiweli angúúngúl); §175-10.1-2310(a) (aschuulong "registrant")*
38. *§175-10.1-2325(e) (ebwe ffat); §175-10.1-2405(a)(2) (pr) ("pandemic closure")*
39. *§175-10.1-2510(a)-(b) (liiweli weewel); §175-10.1-2540 ("amend offense")*

40. *§175-10.1-2525(c) (pr) ("continuing violations") §175-10.1-2560(pr) ("settlements")*
41. *§175-10.1-2545(a)-(c), (e) ("amend penalties"); §175-10.1-2605(e), (h)(i)(pr) ("junkets")*
42. *§175-10.1-2635(d) (pr) ("payment reports"); §175-10.1-2640(a)-(c) (liiweli óbwóss)*
43. *§175-10.1-2905(a)-(c) ("reduce inclusion"); §175-10.1-2910 ("amend exclusion list")*
44. *§175-10.1-2915(a)-(b) ("amend exclusion list"); §175-10.1-2925(a)-(b) (weewe)*
45. *§175-10.1-2935(a)-(c) ("reduce exclusion"); §175-10.1-2940 ("amend exclusion")*
46. *§175-10.1-2945(a), (e) (weewe); §175-10.1-2960 (liiweli lemelem)*
47. *§175-10.1-2965(a)-(c), (e), (g) (liiweli mwóghutughut); §175-10.1-3001(a) (ebwe ffat)*
48. *§175-10.1-3005 (ebwe ffat kkapasal "patron dispute")*

KKAPASAL ME AWEEWEL: Fengál me milikka akkááw, Allégh me Mwóghutughut iye e appasch: aita sefáálíy "Casino Service Provider License"; ayoora ngáli casino "non gaming vendor registration"; streamline-li mwóghutughut ngáli abwungubwung fengál me "Casino License Agreement"; ayoorai "minimum working capital requirements"; aweelaló isch ikka ese wel ngáre "grammar and punctuation errors"; "addresses continuing violations"; liiweli weewel; liiweli "time limits"; "redefines major offense"; liiweli list-al "self-exclusion" me lemelemil; mweiti ngáli "stipulated agreements"; me "requires various payment/collection reports".

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut me llól Commonwealth Register llól tálil pommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me llól bwulasiyol gobetnameento llól senatorial district; ebwe akkatééwow arongorong yeel llól English me mwáliyaasch. (1 CMC §9104(a)(1)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, reel féléfél iye weiláng, fax ngáre email address, fengál reel subject line "New Casino Commission Rules and Regulation". Ebwe toolong ischil kkapas llól eliigh ráál sángi ráálil akkatééwowul arongorong yeel. Isiisilong yóómw data, views ngáre angiingi. (1 CMC § 9104(a)(2)). Commonwealth Casino Commission re átirowa Mwóghutughut ikka e appasch wóól ngáre arol 10/22/2020.

Isáliyalong: Edward C. Deleon Guerrero
EDWARD C. DELEON GUERRERO
Chairman-il Commission

10/22/2020
Ráál

Bwughiyal: _____ 10|26|2020
MATHILDA A. ROSARIO — Ráál
Special Assistant ngali Administration

Ammwelil: _____ 10.28.2020
ESTHER SN. NESBITT — Ráál
Commonwealth Registrar

[Átirowal Soulemelemil Allégh iye e amwirimwiritiw]

Sángi 1 CMC § 2153(e) (sángi aal átirow mwóghutughut kkal sángi AG bwe aa ffil reel ffééról) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me aa átirow reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikkilátiw wóól 28 ráálil October, 2020.

_____
Hon. EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 175-10.1-040 Definitions.

In this subchapter, the following words have the following meanings, unless some contrary meaning is required:

(a) "Act" means Public Law 18-56 as it may be amended or supplemented by subsequent legislation.

(b) "Ante" means a player's initial wager or predetermined contribution to the pot prior to the dealing of the first hand.

(c) "Automated Teller Machine" or "ATM" means an automated bank teller machine capable of dispensing or receiving cash.

(d) "Authorized Personnel" means any member or designee of the Commonwealth Casino Commission.

(e) "Book" means a race book or sports pool licensed and approved pursuant to these regulations.

(f) "Business Year" means the annual period used by a licensee for internal accounting purposes.

(g) "Call" means a wager made in an amount equal to the immediately preceding wager.

(h) "Card Game" means a game in which the licensee is not party to wagers and from which the licensee receives compensation in the form of a rake-off, a time buy-in, or other fee or payment from a player for the privilege of playing, and includes but is not limited to the following: poker, bridge, whist, solo and ~~panguingui~~panguingue.

(i) "Card Room Bank" means an imprest fund which is a part of and accountable to the licensee's casino cage or bankroll but which is maintained in the card room exclusively for the purposes set forth in §175-10.1-2115(a).

(j) "Card Table Bank" means an imprest inventory of cash and chips physically located in the table tray on the card table and controlled by the licensee through accountability established with the card room bank. The card table bank shall be used only for the purposes set forth in § 175-10.1-2115(b)

(k) "Cashable Credits" means wagering credits that are redeemable for cash or any other thing of value.

(l) "Casino" means a place, area, structure, vessel, communication channel, or other thing, tangible or intangible, subject to licensing pursuant to this chapter for the conduct

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and playing of one or more games, or the acceptance of bets and wagers, including all associated activities of gaming and wagering, including but not limited to any bar, cocktail lounge, or other facilities housed therein such as money counting, surveillance, accounting, and storage, related to such conduct and playing, provided, that such term shall not include areas of a resort complex or other facility exclusively devoted to other activities, such as a hotel, golf course, etc., in which no game is conducted or played and no wagering occurs.

(m) "Casino Employees" means any natural person employed by the licensed casino who carries out or conducts casino gaming activities as part of the business of the exclusive casino licensee, which person shall be eighteen years of age or older and hold a license granted by the Commission. Persons deemed to be casino employees shall include:
(1) Table games personnel who attend to or conduct gaming activities, including dealers, floor personnel, pit managers and shift managers.
(2) Cage and count room personnel who support gaming activities within the casino, including cashiers, supervisors and shift managers.
(3) Security personnel who work within the casino gaming areas, including guards, supervisors and shift managers.
(4) Surveillance personnel who work within the casino gaming areas, including operators, supervisors and shift managers.
(5) Marketing personnel who attend to or support gaming activities within the casino gaming areas, including hosts, marketing representatives, supervisors, and shift managers.
(6) Slot machines personnel who attend to or support gaming activities within the casino, including attendants, technicians, supervisors, and shift managers.
(7) Accounting personnel who work directly with financial information relating to gaming activities, including revenue auditors, staff accountants, and supervisors.
(8) Information technology personnel who attend to or support gaming activities within the casino, including technicians, engineers, and supervisors.
(9) Members of the management team who are manager level and above and who oversee or supervise or have responsibilities over any of the above operations.
(10) Executive directors of the casino licensee.

(n) "Casino Gaming Activities" means all games of chance and other games played in major casino establishments in the United States and other games approved by the Commission, and further includes the operation of a sports book approved by the Commission to accept bets and wagers on sporting and other events which rely on events which occur within and without the casino.

(o) "Casino Gaming Licensee" or "Casino Licensee" means the holder of the license issued by the Commonwealth Lottery Commission pursuant to the Act to operate casino gaming at the casino gaming facilities.

(p) "Casino Gross Gaming Revenue" means the total sums actually received from casino gaming activities, including credit card payments received and checks received

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whether collected or not, less the total amount paid out as winnings, provided that any sum received in payment for credit extended by a casino or operator for purposes of casino gaming activities or for the issue of a chip or chips for casino gaming activities shall be included as a sum received from gaming, and provided further that no allowance shall be permitted for any credit card fee or discount.

(q) "Casino Key Employee" means an individual who is employed in the operation of a casino and who supervises other individuals employed in the casino and includes:
(1) A manager, an assistant manager, a floor person, a pit boss, a shift boss, a credit manager, and a count room manager;
(2) A supervisor of security employees, surveillance employees, accounting and auditing employees, and cashiers or count room employees;
(3) The chief legal officer, whether or not he or she is in-house counsel or retained, and all other in-house legal counsel, without regard to whether the individual supervises other individuals; and
(4) Any employee whatsoever of a casino licensee so designated by the Commission.

(r) "Casino Non-gaming-related Supplier" means a person who provides for the playing of games of chance in a casino, gaming equipment that is not mentioned in the definition of casino service provider in this section, or goods or services that relate to the construction, furnishing, repair, maintenance, or business of a casino, but that are not directly related to the playing of games of chance.

(s) "Casino Security Service" means any non-governmental enterprise providing surveillance and/or security services to a casino, a casino licensee, to an approved hotel, or to any premises located with a casino hotel complex.

(t) "Casino ~~Service Provider~~Gaming Vendor" means a person subject to licensing pursuant to this chapter that offers goods or services directly related to casino gaming activities, including such persons as: gaming equipment manufacturers, importers, distributors, and repairers; casino security services; and any other service provider or entity the Commission requires to be licensed.

(u) "Chairman" means the Chairman of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.

(v) "Check" means a monetary instrument commanding a bank to pay a sum of money. In card games, it means to waive the right to initiate the wagering, but to retain the right to call after all the other players have either wagered or folded.

(w) "Chip" means a non-metal or partly metal representative of value issued by a licensee for use at table games or counter games at the licensee's gaming establishment.

(x) "CMC" means the Northern Mariana Islands Commonwealth Code.

(y) "CNMI" means the Commonwealth of the Northern Mariana Islands.

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(z) "Commission" means the Commonwealth Casino Commission established by the Act.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Amdts Adopted 40 Com. Reg. 40928 (Sept. 28, 2018); Amdts Proposed 40 Com. Reg. 40807 (June 28, 2018); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed semi-colons following definition terms to "means" pursuant to 1 CMC § 3806(g).

§ 175-10.1-050 Further Definitions.

In this subchapter, the following words have the following meanings, unless some contrary meaning is required:

(a) "Licensee" means a holder of a license issued by the Commission.

(b) "Meeting" means the convening of the full membership of the Commission, for which notice and a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the Commission has supervision, control, jurisdiction, or advisory power. It includes, but is not limited to, the consideration of license applications, transfers of interest, claims for tax refunds, petitions for redetermination, disciplinary proceedings, and exclusion list proceedings.

(c) "Members" mean the Commissioners of the Commonwealth Casino Commission.

(d) "Operator" means any person that actually provides the overall management of the operations of a casino, whether by ownership, lease, contract, agreement, or otherwise.

(e) "Payout Receipt" means an instrument that is redeemable for cash and is either issued by a game or gaming device, or as a result of a communication from a game or gaming device to associated equipment, that cannot be used for wagering purposes.

(f) "Person" includes a natural person, as well as a partnership, corporation, association, joint venture, or other business entity.

(g) "Pot" means the total amount anted and wagered by players during a hand.

(h) "Premises" means land together with all buildings, improvements and personal property located thereon.

(i) "Prepaid Access Instrument" means a card, code, electronic serial number, mobile identification number, personal identification number or similar device that allows patron

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access to funds that have been paid in advance and can be retrieved or transferred at some point in the future through such a device. To transfer funds for gaming purposes, a prepaid access instrument must be used in conjunction with an approved cashless wagering system, race book or sports pool wagering account, or interactive gaming account.

(j) "Promotional Chip" means a chip or token-like object issued by a licensee for use in promotions or tournaments at the licensee's gaming establishment.

(k) "Proposition Player" means a person paid a fixed sum by the licensee for the specific purpose of playing in a card game who uses his own funds and who retains his winnings and absorbs his losses.

(l) "Raise" means a wager made in an amount greater than the immediately preceding wager.

(m) "Rake-off" means a percentage of the total amount anted and wagered by players during a hand in a card game which may be taken by the licensee for maintaining or dealing the game.

(n) "Registration" means a final order of the Commission which finds a partnership, limited partnership, association, trust, corporation, or other legal entity except an individual suitable to ~~be a holding company with respect to a~~ transact with the casino gaming licensee.

(o) "Regulations" means regulations adopted by the Commission.

(p) "Resort" means a place, such as a hotel with no fewer than five hundred rooms and a meeting hall, convention center, or other large event space capable of accommodating one thousand attendees, that is frequented by people for relaxation or recreation. To be considered a Resort, it must be built to the standards and contain amenities required in the Casino License Agreement entered into between the Commonwealth Lottery Commission and the casino gaming licensee.

(q) "Rim Credit" means all extensions of credit in exchange for chips not evidenced by the immediate preparation of a credit instrument.

(r) "Sales Representative" means any person owning an interest in, employed by, or representing a casino service industry enterprise licensed, who solicits the goods and services or business thereof.

(s) "Secretary" means the secretary of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.

(t) "Secure Storage Facility" means any area, room, furniture, equipment, machinery, or other device used by the Commission for the storage of confidential information

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access to which is limited to authorized personnel at all times by lock or other appropriate security precaution.

(u) "Shill" or "Card Game Shill" means an employee engaged and financed by the licensee as a player for the purpose of starting and/or maintaining a sufficient number of players in a card game.

(v) "Slot Machine" means a machine used for gambling that starts when you put coins, dollars, chips, tokens, or credits into it and pull a handle or press a button. It includes but is not limited to video poker machines, electronic gaming machines, and all similar machines as determined by the Commission which can be used for the playing of games or wagering in any fashion.

(w) "Stake" means the funds with which a player enters a game.

(x) "Stakes Player" A person financed by the licensee to participate in a game under an arrangement or understanding where by such person is entitled to retain all or any portion of his winnings.

(y) "Statements on Auditing Standards" means the auditing standards and procedures published by the American Institute of Certified Public Accountants.

(z) "Statistical Drop" means the dollar amount of cash wagered by a patron that is placed in the drop box plus the dollar amount of chips or tokens issued at a table to a patron for currency, credit instruments, or rim credit.

Modified, 1 CMC § 3806(d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed semi-colons following definition terms to "means" in (l) and changed "it be built the" to "it must be built to the" in (p) pursuant to 1 CMC § 3806(g).

§ 175-10.1-055 Further Definitions.

In this subchapter, the following words have the following meanings, unless some contrary meaning is required:

(a) "Statistical Win" means the dollar amount won by the licensee through play.

(b) "Table Game Bankroll" means the inventory of:
(1) Chips, tokens, and coinage at a table game that is used to make change, extend credit, and pay winning wagers; and
(2) Unpaid credit at a table game, including credit instruments not yet transferred to the cage and outstanding rim credit.

(c) "Table Tray" means a receptacle used to hold the card table bank.

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(d) "Time Buy-in" means a charge to a player, determined on a time basis, by the licensee for the right to participate in a game.

(e) "Token" means a metal representative of value issued by a licensee for use in slot machines and at table games or counter games at the licensee's gaming establishment.

(f) "Treasurer" means the treasurer of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.

(g) "Vice Chairman" means the Vice Chairman of the Commission appointed, confirmed, and elected pursuant to the Act or his designee.

(h) "Wager" or "Wagering" means a contract in which two or more parties agree that a sum of money or other thing, tangible or intangible, shall be paid or delivered to one of them or that shall gain or lose on the happening of an uncertain event or upon the ascertainment of a fact in dispute.

(i) "Wagering Voucher" means a printed wagering instrument, used in a cashless wagering system, that has a fixed dollar wagering value and is redeemable for cash or cash equivalents.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed semi-colons following definition terms to "means" pursuant to 1 CMC § 3806(g).

§ 175-10.1-105 Powers and Duties.

The Commission shall have all the powers and authority necessary to carry out the purposes of the Act, including, without limitation, the responsibility:

(a) To conduct hearings pertaining to the violation of the Act or regulations promulgated thereto, including hearings for the purpose of approving casino licenses and other business allowed under the Act.

(b) To promulgate such rules and regulations, as may be necessary to fulfill the intent, policies, and purposes of the Act. The Commission may use such rules and regulations to interpret; enlarge upon, except provisions defining the authority and powers of the Commission; or define any provision of the Act to the extent that such provision is not specifically defined by the Act. The rules and regulations shall, at a minimum, provide for the following:
(1) A code of ethics for the members of the Commission and its officers and employees;
(2) Supervision, monitoring, and investigation or other means to ensure the suitability

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and compliance with the legal, statutory, and contractual obligations of owners, operators, and employees of casinos and other persons licensed under this chapter;
(3) The examination, supervision, and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires, and other parties with any direct or indirect relation to the sole casino operator licensee and to protect the public in the event that such capability is significantly diminished;
(4) To collaborate in the definition, coordination, and execution of the economic policies for the operations of the casino games of fortune and other ways of gaming, pari-mutuels, wagering, and casino gaming activities offered to the public;
(5) To authorize and certify all the equipment and utensils used by the operations of the concessionaires approved in the respective concessions;
(6) To issue licenses for "junket" promoters of casino games of fortune or other casino gaming activities and charge fees therefore;
(7) To examine, supervise, and monitor the eligibility of the single or collective junket promoter(s), their partners, and principal employees;
(8) To examine, supervise, and monitor the activities and promotions of the junket promoters in relation to their compliance with legal, statutory, and contractual obligations, and other responsibilities stipulated in the applicable legislation and contracts;
(9) To investigate and penalize any administrative infractions practiced according to the appropriate substantial and procedural legislations;
(10) To ensure that the relationship of the licensed gaming operators with the government and the public is in compliance with the Commission's regulations and provides the highest interest to Commonwealth;
(11) The exclusion and removal of undesirable persons from the sole casino operator licensee's facilities;
(12) Civil penalties for the violation of provisions or regulations imposed under the Act;
(13) Penalties for the late payment of applicable fines or fees;
(14) Means to exclude from the gaming areas of a casino individuals under twenty-one years of age, except such lawful employees of the casino or of a resort complex or other facility of which the casino forms a part as the Commission determines by regulation may be present in such areas; and
(15) Provisions to attempt to identify and refuse service to gambling addicts and problem gamblers as they may be defined by the Commission.

(c) To levy fines and penalties for the violation of provisions of the Act and the regulations promulgated by the Commission.

(d) To require and demand access to and inspect, examine, photocopy, and audit all papers, books, and records of the casino operator on its premises or elsewhere as practical, including inspecting the gross income produced by the casino operators, gaming business and verification of their income, and all other matters affecting the enforcement of the Commission's policy or as required pursuant to the Act.

(e) To determine the types of gaming and games to be covered by the casino license

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and their structure.

(f) To regulate sports betting, pari-mutuel betting, and other wagering, which relies on events occurring within or without the casinos, regulated by the Commission.

(g) The Commission shall not have the authority to issue license to the sole casino operator licensee. The power to issue such license lies with the Commonwealth Lottery Commission.

(h) To require and demand access to and inspect, examine, photocopy, and audit all papers, books and records of any casino ~~service provider~~gaming vendor on its premises or elsewhere as practical, including inspecting the gross income produced by the provider's business and verification of their income, and all other matters affecting the enforcement of the Commission's policy or as required pursuant to this chapter.

(i) To conduct investigative hearings with public notice which may be conducted by one or more members with the concurrence of a majority of the Commission, or by a hearing examiner appointed by the Commission, with or without public notice, at such times and places, within the Commonwealth, as may be convenient.

(j) To withhold from public inspection, copying, or disclosure:
(1) All information and data required by the Commission to be furnished pursuant to this chapter or the regulations promulgated hereunder, or which may otherwise be obtained, relative to the internal controls or to the earnings or revenue of any applicant or licensee except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency;
(2) All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the division or the Commission from any source shall be considered confidential and shall be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency; and
(3) All things permitted to be exempt pursuant to the Open Government Act.
(4) However, the following information to be reported periodically to the Commission by a casino licensee shall not be considered confidential and shall be made available for public inspection:
(i) A licensee's gross revenue from all authorized casino gaming activities as defined in this chapter, and the licensee's gross revenue from simulcast wagering;
(ii)

(A) The dollar amount of patron checks initially accepted by a licensee,

(B) the dollar amount of patron checks deposited to the licensee's bank account,

(C) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as uncollected, and

(D) the dollar amount ultimately uncollected after all reasonable efforts;

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(iii) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to Commonwealth law;
(iv) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to Commonwealth law;
(v) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to Commonwealth law;
(vi) All quarterly and annual financial statements presenting historical data which are submitted to the Commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the CNMI; and
(vii) The identity and nature of services provided by any person or firm receiving payment in any form whatsoever for professional services in connection with the authorization or conduct of games conducted at a casino establishment.

(k) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsections (j)(1)–(2), shall be given to any applicant or licensee in a manner prescribed by the rules and regulations adopted by the Commission

(l) To have the sole authority to amend or revoke the license granted to the casino operator by the Commonwealth Lottery Commission for operating in an unsuitable manner due to violations of law, breaches of the license or violations of the regulations promulgated by the Commission, as well as any other reason for revocation or termination stated in the License. If the Commission revokes the license issued by the Commonwealth Lottery Commission, the Commonwealth Casino Commission shall have the sole authority to re-issue a new casino gaming license. At least three affirmative votes by Commission members shall be required to issue a new casino license.

(m) [RESERVED]

(n) [RESERVED]

(o) The Commission shall have all oversight, responsibility, and authority necessary to assure compliance with this chapter, including but not limited to authority over: timelines for construction, the commencement of operations, and achieving the minimum initial investment requirements. The Commission shall approve the casino operator licensee's set number of games, such as slot machines or gaming tables, either in total or by category, or by location.

(p) To impose reasonable charges and fees for all costs incidental to the review, redaction, and copying by the Commission of documents subject to public inspection without regard to whether the document is merely inspected by the requestor or whether copies are requested.

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(q) To summarily seize and remove from all premises wherein gaming is conducted or gambling devices or equipment is manufactured, sold, or distributed, and impound any equipment, supplies, documents, or records for the purpose of examination and inspection.

(r) The Commission or any of its members has full power and authority to issue subpoenas and compel the attendance of witnesses at any place within the Commonwealth, to administer oaths, receive evidence, and to require testimony under oath. The Commission or any member thereof may appoint hearing examiners who may issue subpoenas, administer oaths, and receive evidence and testimony under oath.

(s) The Commission may pay transportation and other expenses of witnesses as it may deem reasonable and proper. The Commission may require any licensee or applicant which is the subject of the hearing to pay for all costs and expenses of said hearing, including the expenses of any witness.

(t) The Commission shall initiate regulatory proceedings or actions appropriate to enforce the provisions of the gaming laws of the Commonwealth and the regulations promulgated thereto, when appropriate shall, in conjunction with the Attorney General, sue civilly to enforce the provisions of the gaming laws of the Commonwealth and the regulations promulgated thereto, and may request that the Attorney General prosecute any public offense committed in violation of any provision of the gaming laws of the Commonwealth.

(u) To have sole jurisdiction to resolve disputes between patrons of a licensed casino and the licensee wherein the patron is attempting to collect a payout or other gaming debt. The Commission shall provide by regulation the procedures by which disputes are to be resolved and may impose charges and fees therefore. Notwithstanding any other law to the contrary, the Commission's decisions on patron disputes may be reviewed by the Commonwealth Superior Court which may affirm the decision and order of the Commission or the hearing examiner, or it may remand the case for further proceedings, or reverse the decision only if the substantial rights of the petitioner have been prejudiced because the decision is:
(1) In violation of constitutional provisions;
(2) In excess of the statutory authority or jurisdiction of the Commission or the hearing examiner; or
(3) Unsupported by any evidence whatsoever.

(v) To have sole jurisdiction to determine whether a person or entity requires licensure or a finding of suitability in order to own, be employed by, receive revenue or profits (whether directly or indirectly) from, or do business with, a licensed casino. Further, the Commission shall have sole jurisdiction to determine whether a person or entity remains suitable in order to continue to own, be employed by, receive revenue or profits (whether directly or indirectly) from, or continue to do business with, a licensed casino. The Commission's decisions on licensure or finding of suitability may be reviewed by the Commonwealth Superior Court which may affirm the decision and order

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of the Commission or the hearing examiner, or it may remand the case for further proceedings, or reverse the decision only if the substantial rights of the petitioner, applicant or license holder have been prejudiced because the decision is:
(1) In violation of constitutional provisions;
(2) In excess of the statutory authority or jurisdiction of the Commission or the hearing examiner; or
(3) Unsupported by any evidence whatsoever.

(w) The Commission shall have concurrent authority to determine the suitability of any location proposed for any portion of the operations of the casino operator licensee's operations in the Commonwealth. The Commission shall have the authority to require of developers, owners, or financers completion bonds in any amount agreeable to the Commission prior to or during the construction of any facility that requires, or once completed will require, a license from the Commission. The Commission shall have the authority to require the casino licensee to obtain completion bonds in any amount deemed reasonable to the Commission and of such quality satisfactory to the Commission to ensure the completion of construction for any construction project built by, for, or in relation to the casino licensee's operations in the Commonwealth. The Commission may but need not regulate the interior design, security, cleanliness or sanitation of any portion of the operations of the casino operator licensee's operations in the Commonwealth or any facility which requires or has a license issued by the Commission regardless of the location of such facility.

(x) Final action shall occur in an open meeting after appropriate notice has been given the public.

(y) To approve the construction of the various phases of development of the operations of the casino operator licensee's operations in the Commonwealth and to allow gaming to commence at any time, and in such locations in Saipan, as the Commission deems appropriate. Notwithstanding the foregoing, the Commission shall regulate one live training facility of temporary duration and all permanent facilities as are consistent with the provisions of the casino license agreement granted to the exclusive casino licensee and together shall be operated by the exclusive casino licensee.

(z) The Commission may exercise any proper power and authority necessary to perform the duties assigned to it by the Legislature, and is not limited by any enumeration of powers in this section.

Modified, 1 CMC § 3806(a), (d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission numbered the paragraph after (j)(3) as (j)(4) pursuant to 1 CMC § 3806(a).

§ 175-10.1-110 Limitation on Powers and Duties.

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(a) The Commission shall not regulate betting or wagering associated with cockfighting.

(b) The Commission shall not have the authority to issue the original license to the sole casino operator licensee pursuant to the Act. The power to issue such sole casino operator license lies with the Commonwealth Lottery Commission pursuant to the Act.

(c) These Regulations supercede and replace any contrary bylaw previously adopted by the Commission.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-115 Executive Director.

(a) The Commission shall hire an Executive Director who will be responsible for the overall administration of the Commission and the supervision of the casino operator licensee and others pursuant to the Act.

(b) Qualification of the Executive Director. The Executive Director shall possess the following minimum qualification:
(1) A bachelor's degree from a United States accredited educational institution or equivalent;
(2) Five years work experience in professional, administrative, or management in government or private sectors;
(3) Good ethical and moral character;
(4) The Commission shall not hire any person for the Executive Director's position who has been convicted of a crime in any jurisdiction of the United States, or any foreign country carrying a minimum sentence of imprisonment of more than six months, excepting traffic offenses; and
(5) The Executive Director shall not have any interest, directly or indirectly, in any business under the jurisdiction of the Commission.

(c) The Executive Director shall be the head of the administration of the Commission, and subject to the general oversight and direction of the Commission, shall organize the work of the Commission in a manner that will ensure its efficient and effective operation and, subject to the budgetary authority, the Executive Director may hire and terminate such staff including a legal counsel and other professionals, necessary to carry out the purpose of the Commission. Such staff shall be exempt from the civil service. The Executive Director shall obtain such equipment, rent or build such additional office space, and generally make such regular office expenditure and acquisitions as necessary to establish and maintain a working office suitable for the Commission to effectively function pursuant to the Act.

(d) The Executive Director shall have such other duties as may be assigned or delegated by the Commission.

(e) The Executive Director serves at the pleasure of the Commission.

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(f) The Executive Director's annual salary shall be established by the Commission. The Executive Director shall be reimbursed for actual, necessary, and reasonable expenses incurred in the performance of his or her duties as allowed by the Commission, but in any event not to exceed twenty-five thousand dollars ($25,000) in reimbursements per calendar year. All travel will be subject to 1 CMC §7407.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-125 Commission Meetings.

(a) Regular meetings of the Commission shall be held at least once per month in Saipan, CNMI, on such dates and at such times as the Commission shall establish.

(b) Special meetings of the Commission will be held from time to time on such dates and at such times and places as the Commission may deem convenient.

(c) Except as otherwise specifically provided by these regulations, any member of the Commission may place an item on a Commission agenda for consideration by the entire Commission.

(d) The Chairman may alter the order in which matters on the Commission agenda are heard. Neither Robert's Rules of Order, nor any other system need be followed in any meeting of the Commission.

(e) Requests for special meetings will be granted only upon a showing of exceptional circumstances. The Commission may require that a person requesting a special meeting pay the costs associated with such meeting, in addition to those costs usually assessed against an applicant.

(f) In the absence or incapacity of the Chairman, the Vice Chairman may call a special meeting. In the absence or incapacity of both, any two members of the Commission may call a special meeting.

(g) Unless otherwise ordered by the Chairman, requests for continuances of any matter on the Commission agenda must be in writing, must set forth in detail the reasons a continuance is necessary, and must be received by the Secretary no later than two calendar days before the meeting.

(h) Unless otherwise ordered by the Chairman, the original of any documentation supplementing an application as required by the Commission must be received by the Secretary no later than eight calendar days before the meeting. Documentation not timely received will not be considered by the Commission unless the Commission, in its discretion, otherwise consents.

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(i) The Chairman may defer to another meeting any matter with respect to which documentation has not been timely submitted. The applicant and its enrolled attorney or agent, if any, must appear at the meeting to which the matter is deferred, unless the Chairman waives their appearances.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-135 Appearances.

(a) Except as provided in subsection (b) or unless an appearance is waived by the Chairman, all persons, and their enrolled attorneys and agents, if any, must appear at the Commission meeting at which their matter is to be heard. Requests for waivers of appearances must be in writing, must be received by the Secretary no later than eight business days before the meeting, and must explain in detail the reasons for requesting the waiver. If at the time of its meeting the Commission has any questions of an applicant who has been granted a waiver and is not present, the matter may be deferred to another meeting of the Commission.

(b) Unless the Commission otherwise instructs, the following persons, and their enrolled attorneys and agents, are hereby granted a waiver of appearance for the Commission meeting: (1) Applicants who have received a unanimous recommendation of approval from the Commission; (2) Licensees or registrants and Commission counsel on stipulations between the licensees or registrants and the Commission, where the stipulations fully resolve petitions for redeterminations, claims for refunds, or other issues.

(c) Where the Commission is to consider a stipulation between the Executive Director and a licensee or registrant settling a disciplinary action and revoking, suspending or conditioning a license or registration, the licensee or registrant shall be prepared to respond on the record to questions regarding the terms of the stipulation and the licensee's or registrant's voluntariness in entering into the stipulation.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-155 Service of Notices in General.

(a) Each licensee, registrant, and applicant shall provide an electronic mail address to the Commission for the purpose of sending notices and other communications from the Commission. Each licensee, registrant, and applicant shall update this electronic mail address notification immediately as often as is otherwise necessary. The original provision and subsequent updates of electronic mail addresses shall be made to the

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Commission's custodian of records by means designated by the Chairman.

(b) Except as otherwise provided by law or in these regulations, notices and other communications may be sent to an applicant, registrant, or licensee by electronic mail at the electronic mail address of the establishment as provided to the Commission for the purpose of sending notices and other communications. Except as otherwise provided by law or in these regulations, notices and other communications sent by electronic mail shall satisfy any requirement to mail a notice or other communication.

(c) Notices, Complaints and other communications shall be deemed to have been served on the date the Commission sent such notices to the electronic mail address provided to the Commission by a licensee or applicant, and the time specified in any such notice shall commence to run from the date of such mailing.

(d) Any applicant or licensee who desires to have notices or other communications mailed to a physical address shall file with the Commission a specific request for that purpose, and notices and other communications ~~will~~ may, in such case, be sent to the applicant or licensee at such address, but the Commission may charge a fee therefore.

(e) An applicant, registrant, or licensee will be addressed under the name or style designated in the application, registration, or license, and separate notices or communications will not be sent to individuals named in such application, registration, or license unless a specific request for that purpose is filed with the Commission. In the absence of such specific request, a notice addressed under the name or style designated in the application or license shall be deemed to be notice to all individuals named in such application, registration, or license.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-205 Official Records; Fees for Copies.

(a) No original official record of the Commission shall be released from the custody of the Commission unless upon the express direction of the Chairman or Executive Director or upon the order of a court of competent jurisdiction.

(b) Copies of the official records of the Commission which are required by law to be made available for public inspection will be made available during the hours provided for in § 175-10.1-201, and upon the payment of appropriate fees.

(c) No person shall, directly or indirectly, procure or attempt to procure from the records of the Commission or from other sources, information of any kind which is not made available by proper authority.

(d) No application, petition, notice, report, document, or other paper will be accepted for filing by the Commission and no request for copies of any forms, pamphlets, records, documents, or other papers will be granted by the Commission, unless such papers or

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request are accompanied by the required fees, charges, or deposits.

(e) The cost of copies of official records of the Commission which are required by law to be made available for public inspection where copies are provided shall be one dollar ($1) per page. Where copies are not provided, the cost for the mere inspection of documents is seventy cents per minute of the Commission's legal counsel's time reviewing, redacting, and copying the inspected documents.

(f) All payment of taxes, fees, deposits, and charges which are to be made to the Commonwealth Treasury shall be made by check payable to the order of the CNMI Treasuerry and mailed to the Department of Finance, with an original receipt delivered to the main office of the Commission or posted by certified mail to the mailing address of the Commission.

(g) All payment of fees, deposits, charges, or payments of any kind which are to be made to the Commonwealth Casino Commission shall be made by check payable to the order of the Commonwealth Casino Commission or the CNMI Treasurer and posted by certified mail to the mailing address of the Commission.

(h) The Commission may provide for payment by wire transfer.

(i) The Casino Licensee must provide to the Executive Director an exact copy of every tax or other document, form, or return filed with or provided to the Commonwealth's Secretary of Finance, the Department of Finance, or the Division of Revenue and Taxation within three days of such filing or provision, without regard as to whether the document, form or return was filed or provided by the Casino Licensee or on behalf of the Casino Licensee by an agent or third party.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-305 Casino ~~Service Provider~~ Gaming Vendor Licenses.

(a) No person shall provide any goods or services to or conduct any business whatsoever with a casino, a casino licensee, its employees or agents, whether or not said goods, services, or business directly relates to casino or gaming activity, unless a casino ~~service provider~~ gaming vendor license authorizing the particular casino service business shall have first been issued to the enterprise pursuant to Part 1300 of these regulations if such licensure has been required by the Commission.

(b) The casino licensee shall not procure in any fashion goods or services from or conduct any business whatsoever with a person or entity, its employees or agents, whether or not said goods, services, or business directly relates to casino or gaming activity, unless a casino ~~service provider~~gaming vendor license authorizing the particular

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casino service business shall have first been issued to the enterprise pursuant to these regulations if such licensure has been required by the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-310 Licenses or Registration Generally Required.

(a) Every casino ~~service provider~~gaming vendor, casino non-gaming vendor~~vendor~~, casino key employee, and casino employee, except those approved by the Chairman, shall wear in a conspicuous manner their license or registration credential issued by the Commission at all times while on duty in the casino area, which includes without limitation the casino floor, cashier's cage, ~~countrooms~~count rooms, surveillance rooms, security rooms, and any area of the premises not accessible to the general public. The license credential shall at a minimum contain the name of the hotel/casino complex, a photograph of the employee, the employee position and title, and shall be numerically controlled.

(b)(1) Neither the casino gaming licensee nor any casino key employee licensee shall permit any person who should be licensed as a casino ~~service provider~~gaming vendor, ~~a casino vendor,~~ a casino key employee, ~~or~~ casino employee, or registered as a casino non-gaming vendor~~vendor~~; except those approved by the Executive Director, to work in the casino area (as defined above) or any area not accessible to the general public without such person obtaining licensure from the Commission. Neither the casino gaming licensee nor any casino key employee licensee shall permit any casino ~~service provider~~gaming vendor, casino non-gaming vendor ~~vendor~~, casino key employee, or casino employee, except those approved by the Chairman, to work in the casino area (as defined above) without wearing their license credential in a conspicuous manner. Neither the casino gaming licensee nor any casino key employee licensee shall permit any casino ~~service provider~~gaming vendor, casino non-gaming vendor~~vendor~~, casino key employee, or casino employee to be present in the cashier's cage, ~~countrooms~~count rooms, surveillance rooms, security rooms, and any area of the premises not accessible to the general public if the employee is not working.

(2) (b) Neither the casino gaming licensee nor any casino key employee licensee nor any casino licensee shall give, suffer, permit or allow in any way any person who is not licensed as a casino key employee access to view or obtain any information not obtainable by a member of the general public.

(c) The casino gaming licensee shall provide each such employee with a holder for the Commission license credential which shall permit the permanent display of the information contained on the license credential. Thirty days prior to the use of any such holder, a casino gaming licensee shall submit a prototype to the Commission along with a narrative description of the proposed manner in which the employee will be required to wear such holder.

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(d) In those situations where a license credential is lost or destroyed, a casino key employee or casino employee may be authorized to enter the casino area to perform employment duties so long as:
(1) The loss or destruction of the license is promptly reported in writing to the Commission;
(2) The employee applies for a new license credential prior to working without the credential and pays the fee for obtaining a replacement license; and
(3) Permission is received from a duly authorized Commission representative to do so.

(e) An application for renewal as a casino key employee or a casino employee shall be accompanied by an offer for continued employment by the casino gaming licensee. The casino employee license shall be valid for three years ~~the remainder of the fiscal year in which it was applied for~~ and renewed up to thirty days (30) before its expiration ~~every third October 1 thereafter~~, unless the license is sooner suspended or revoked, the licensee's authorization to work in the United States expires, is terminated or revoked, or the licensee's employment with the casino gaming licensee has ended. The casino key employee license shall be valid for two years ~~the remainder of the fiscal year in which it was applied for~~ and renewed up to thirty days (30) before its expiration ~~before every other October 1 thereafter~~, unless the license is sooner suspended or revoked, the licensee's authorization to work in the United States expires, is terminated or revoked, or the licensee's employment with the casino gaming licensee has ended. By way of example, a casino key employee license or casino employee license applied for on December 31, 2018~~5~~ is valid through September 30, 2019~~7~~ and must be renewed before October 1, 2019~~7~~. Key employee licensees must not begin work until they have been granted a provisional key employee license or a full key employee license by the Commission.

(f) All suppliers of the casino gaming licensee while conducting business within the premise shall wear in plain view an identification card that identifies the supplier. Supplier identification cards shall be issued by the Commission. No supplier shall be permitted to be in the casino area which includes without limitation the casino floor, cashier's cage, ~~countrooms~~count rooms, surveillance rooms, security rooms, and any area of the premises not accessible to the general public without displaying the Commission-issued identification card.

(g) All licenses and identification cards issued by the Commission remain at all times property of the Commission and must be surrendered to the Commission immediately upon request by any Commission member, agent, or the Executive Director.

(h) Neither the casino gaming licensee nor any casino key employee licensee or casino licensee shall permit any person who is not a holder of a gaming license issued by the Commission access to:
(1) Any player tracking software or database;
(2) Any software or database used in any manner whatsoever for the conduct of casino gaming or casino accounting;

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(3) Any computer or network settings, configurations, or passwords if such computer or network settings, configurations, or passwords are used in any manner whatsoever for the conduct of casino gaming or casino accounting;
(4) Any information or data of any kind whatsoever stored in or collected by any software listed in subsections (h)(1)–(2),unless such person is enrolled pursuant to Part 1000 or has been granted permission to obtain access by the Executive Director.

Modified, 1 CMC § 3806(d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed "CCC" to "Commission" throughout this title pursuant to 1 CMC § 3806(g).

§ 175-10.1-325 Mandatory License or Registration Requirements.

A condition of a casino license or any casino ~~service provider~~gaming vendor license or casino non-gaming vendor~~vendor~~ registration ~~license~~, the Commission or its authorized representatives may inspect and monitor, at any time and with or without notice, any part of the licensed casino, its gaming operations, equipment, records, and related activities and any similar area or activity of the licensed casino ~~service provider~~gaming vendor or casino non-gaming vendor~~vendor~~, and that a law enforcement officer may enter any such area as requested by the Commission. The Executive Director may authorize representatives of the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-425 Withdrawal.

(a) Except as otherwise provided in subsection (b), a written notice of withdrawal of application may be filed by any applicant at any time prior to final Commission action. No application shall be permitted to be withdrawn, however, unless the applicant shall have first established to the satisfaction of the ~~Commission~~ Executive Director that withdrawal of the application would be consistent with the public interest and the policies of the Act. Unless the Executive Director~~Commissi on~~ shall otherwise direct, no fee or other payment relating to any application shall become refundable in whole or in part by reason of withdrawal of the application. The ~~Commission~~ Executive Director shall not direct the refunding, in whole or in part, of any fee or other payment relating to any application unless the ~~Commission~~ Executive Director determines that the refunding of the fee is in the best interest of the Commonwealth.

(b) Where a hearing on an application has been requested by a party or directed by the Commission, the ~~Commission~~ Executive Director shall not permit withdrawal of said

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application after:
(1) The application matter has been assigned to any other hearing examiner authorized by law or these regulations to hear such matter; or
(2) The Commission has made a determination to hear the application matter directly.

(c) Notwithstanding the foregoing, the ~~Commission~~ Executive Director may accept and consider written notice of withdrawal after the time specified herein if extraordinary circumstances so warrant.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Part 500 - ACCOUNTING REGULATIONS

§ 175-10.1-501 Commission Divisions.

The Commission shall organize and maintain an Executive Division, a Division of Permit & Licensing, ~~Administration,~~ a Division of Enforcement & Investigations, a Division of Audit, and a Division of Compliance.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-505 Commission Audit Procedures.

(a) The Division of Audit and the Division of Compliance will have the authority, among other tasks assigned by the Executive Director to:
(1) Conduct periodic audits or reviews of the books and records of licensees on an as-needed basis, in the discretion of the Executive Director;
(2) Review the accounting methods and procedures used by licensees;
(3) Review and observe methods and procedures used by licensees to count and handle cash, chips, tokens, negotiable instruments, and credit instruments;
(4) Examine the licensees' records and procedures in extending credit, and to confirm with gaming patrons the existence of an amount of debt and any settlement thereof;
(5) Examine and review licensees' internal control procedures;
(6) Examine all accounting and bookkeeping records and ledger accounts of the licensee or a person controlling, controlled by, or under common control with the licensee;
(7) Examine the books and records of any licensee when conditions indicate the need for such action or upon the request of the Chairman or the Commission; and
(8) Investigate each licensee's compliance with the Act and the regulations of the Commission.

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(b) The Division of Audit and/or the Division of Compliance shall at the request of the Executive Director conduct each audit in conformity with the statements on auditing standards. The Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~ shall prepare an appropriate report at the conclusion of each audit and shall submit a copy of the report to the Commission.

(c) At the conclusion of each audit or review, the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ or other applicable division shall confer with and go over the results of the audit or review with the licensee. The licensee may, within ten days of the conference, submit written reasons why the results of the audit or review should not be accepted. The Commission shall consider the submission prior to its determination.

(d) When the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ or any other division finds that the licensee is required to pay additional fees or taxes or finds that the licensee is entitled to a refund of fees or taxes, it shall report its findings, and the legal basis upon which the findings are made, to the Commission and to the licensee in sufficient detail to enable the Commission to determine if an assessment or refund is required.

(e) Ordinarily, the casino gaming licensee will not pay the costs of the audit. If the Executive Director determines that the audit will require excessive costs, such excessive costs shall be paid by the casino gaming licensee. If the audit reveals and the Executive Director determines that amounts were deliberately misreported, underreported, or mischaracterized, the casino gaming licensee shall, in addition to any penalty which may be imposed, pay the costs of the audit and investigation.

(f) The Commission may require that a casino ~~service provider~~gaming vendor pay the costs of the audit.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-510 Procedure for Reporting and Paying Gaming Taxes and Fees.

(a) Unless the Commission establishes another procedure, taxes and fees which are to be paid to the Treasurer, and all reports relating thereto which are required under the Act and the regulations must be received by the Commonwealth Treasurer with an original receipt provided to the Commission not later than the due date specified by law or regulation, except that the taxes and reports shall be deemed to be timely filed if the casino gaming licensee or casino service provider demonstrates to the satisfaction of the Commission that they were deposited in a United States post office or mailbox, with first-class postage prepaid, and properly addressed to the Commonwealth Treasurer, within the time allowed for payment of the taxes. The original receipt must be promptly forwarded to the Commission.

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(b) Unless the Commission establishes another procedure, fees which are to be paid to the Commission and all reports relating thereto must be received by the Commission not later than the due date specified by law or regulation, except that the fees and reports shall be deemed to be timely filed if the casino gaming licensee or casino ~~service provider~~gaming vendor demonstrates to the satisfaction of the Commission that they were deposited in a United States post office or mailbox, with first-class postage prepaid, and properly addressed to the Commission, as the case may be, within the time allowed for payment of the taxes.

(c) The casino gaming licensee or casino ~~service provider~~gaming vendor licensee may elect to report and pay its fees, and file all reports relating thereto, via check or pursuant to an electronic transfer procedure approved by the Commission.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-515 Accounting Records.

(a) The casino gaming licensee, and each other licensee, in such manner as the Chairman may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Commonwealth Code and these regulations. Each licensee that keeps permanent records in a computerized or microfiche fashion shall provide the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~, or the Department of Finance's applicable tax and license division, upon request, with a detailed index to the microfiche or computer record that is indexed by department and date.

(b) The casino gaming licensee shall keep general accounting records on a double entry system of accounting, maintaining detailed, supporting, subsidiary records, including:
(1) Detailed records identifying all revenues, all expenses, all assets, all liabilities, and equity for each establishment;
(2) Detailed records of all markers, IOU's, returned checks, hold checks, or other similar credit instruments accepted by the licensee;
(3) Individual and statistical game records to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop by table for each table game, and to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop for each type of table game, either by each shift or other accounting period approved by the Commission, and individual and statistical game records reflecting similar information for all other games;
(4) Slot analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages;
(5) Journal entries prepared by the licensee and its independent accountant;
(6) All information pertaining to any promotional, discount, or VIP service type programs;

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(7) All information pertaining to any junket or junket-type operators or programs including, but not limited to all contracts and agreements of any kind, all money schedules, settlement sheets, and reports or written communications of any kind between the licensee and any junket operator, junket player or junket patron of any type; and
(8) Any other records that the Commission specifically requires to be maintained.

(c) The casino gaming licensee shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its operations which are subject of these regulations. Every other licensee shall create and maintain records sufficient to accurately reflect gross income and expenses relating to its operations which are subject of these regulations.

(d) If the casino gaming licensee fails to keep the records used by it to calculate gross gaming revenue, the Commission may compute and determine the amount of taxable revenue upon the basis of an audit conducted by the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~, or any other division, upon the basis of any information within the Commission's possession, or upon statistical analysis.

(e) Casino employee or casino key employee licensees must maintain such revenue and tax records as the Commission requires be maintained, in addition to any records required by the Department of Finance.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-525 Records of Ownership.

(a) Each corporate licensee or corporate owner of a casino gaming licensee shall keep on the premises of the casino gaming licensee, or shall provide to the ~~d~~Divisions of Audit, Divisi~~-and~~on of Compliance, ~~the~~ Division of Enforcement & Investigations, or the Division of Permit & Licensing~~Administration~~, upon request, the following documents pertaining to the corporation:
(1) A certified copy of the articles of incorporation and any amendments;
(2) A copy of the bylaws and any amendments;
(3) A copy of the license issued by the Commonwealth Secretary of Finance authorizing the corporation to transact business in the Commonwealth;
(4) A list of all current and former officers and directors;
(5) Minutes of all meetings of the stockholders which pertain to the casino gaming licensee;
(6) Minutes of all meetings of the directors which pertain to the casino gaming licensee;
(7) A list of all stockholders listing each stockholder's name, address, the number of shares held, and the date the shares were acquired;
(8) The stock certificate ledger;

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(9) A record of all transfers of the corporation's stock; and
(10) A record of amounts paid to the corporation for issuance of stock and other capital contributions.

(b) Each partnership licensee shall keep on the premises of its gaming establishment, or provide to the ~~d~~Divisions~~ of Audit, Division of and C~~Compliance,~~ the~~ Division of Enforcement & Investigations, or the Division of Permit & Licensing~~Administration~~, upon request, the following documents pertaining to the partnership:
(1) A copy of the partnership agreement and, if applicable, the certificate of limited partnership;
(2) A list of the partners, including their names, addresses, the percentage of interest held by each, the amount and date of each capital contribution of each partner, the date the interest was acquired, and the salary paid by the partnership; and
(3) A record of all withdrawals of partnership funds or assets.

(c) Each casino gaming licensee which is a LLC licensee shall keep on the premises of its establishment, or shall provide to the Division of Audit, the Division of Compliance~~divisions of Audit and Compliance~~, the Division of Enforcement & Investigations, or the Division of Permit & Licensing~~Administration~~, upon request, the following documents pertaining to the LLC:
(1) A certified copy of the articles of organization and any amendments;
(2) A copy of the operating agreement and any amendments;
(3) A copy of the license issued by the Commonwealth Secretary of Commerce authorizing the LLC to transact business in the Commonwealth;
(4) A list of all current and former Members and Managers;
(5) Minutes of all meetings of the Members;
(6) Minutes of all meetings of the LLC;
(7) A list of all persons with any distributional interest in the LLC listing each person's name, address, the percentage of distributional interested owned or controlled by the person, and the date the interest was acquired;
(8) The stock certificate ledger;
(9) A record of all transfers of any beneficial interest in the LLC; and
(10) A record of amounts paid to the LLC as capital contributions.

(d) The operating agreement of any limited liability company which has been granted a casino gaming license must be in writing and shall include any language required by the Commonwealth Casino Commission by order as well as language substantially as follows:
(1) Notwithstanding anything to the contrary expressed or implied in the articles or this agreement, the sale, assignment, transfer, pledge, or other disposition of any interest in the limited liability company is ineffective unless approved in advance by the Commonwealth Casino Commission. If at any time the Commission finds that a member which owns any such interest is unsuitable to hold that interest, the Commission shall immediately notify the limited liability company of that fact. The limited liability company shall, within ten days from the date that it receives the notice from the Commission, return to the unsuitable member the amount of his capital

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account as reflected on the books of the limited liability company. Beginning on the date when the Commission serves notice of a determination of unsuitability, pursuant to the preceding sentence, upon the limited liability company, it is unlawful for the unsuitable member: (A) To receive any share of the distribution of profits or cash or any other property of, or payments upon dissolution of, the limited liability company, other than a return of capital as required above; (B) To exercise directly or through a trustee or nominee, any voting right conferred by such interest; (C) To participate in the management of the business and affairs of the limited liability company; or (D) To receive any remuneration in any form from the limited liability company, for services rendered or otherwise.

(2) Any member that is found unsuitable by the Commission shall return all evidence of any ownership in the limited liability company to the limited liability company, at which time the limited liability company shall within ten days, after the limited liability company receives notice from the Commission, return to the member in cash, the amount of his capital account as reflected on the books of the limited liability company, and the unsuitable member shall no longer have any direct or indirect interest in the limited liability company."

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-530 Record Retention; Noncompliance.

Each licensee shall provide the Ddivisions of Audit, the Division of and Compliance, the Division of Enforcement & Investigations, or the Division of Permit & LicensingAdministration, upon request, with the records required to be maintained by these regulations. Unless the Commission approves or requires otherwise in writing, each licensee shall retain all such records within the Commonwealth for at least five years after they are made. Failure to keep and provide such records is an unsuitable method of operation.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-550 Gross Revenue Computations.

(a) For each table game, gross revenue equals the closing table game bankroll plus credit slips for cash, chips, tokens, or personal/payroll checks returned to the casino cage, plus drop, less opening table game bankroll, fills to the table, money transfers issued from the game through the use of a cashless wagering system.

(b) For each slot machine, gross revenue equals drop less fills to the machine and jackpot payouts. Additionally, the initial hopper load is not a fill and does not affect gross revenue. The difference between the initial hopper load and the total amount that is in the hopper at the end of the licensee's fiscal year must be adjusted accordingly as an

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addition to or subtraction from the drop for that year. If a casino gaming licensee does not make such adjustments, or makes inaccurate adjustments, the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ may compute an estimated total amount in the slot machine hoppers and may make reasonable adjustments to gross revenue during the course of an audit.

(c) For each counter game, gross revenue equals:
(1) The counter games write on events or games that occur during the month or will occur in subsequent months, less counter games payout during the month ("cash basis"); or
(2) Counter games write on events or games that occur during the counter games write plus money, not previously included in gross revenue that was accepted by the licensee in previous months on events or games occurring during the month, less counter games payouts during the month ("modified accrual basis") to patrons on winning wagers.

(d) For each card game and any other game in which the licensee is not a party to a wager, gross revenue equals all money received by the casino gaming licensee as compensation for conducting the game.

(e) In computing gross revenue for a slot machines, keno and bingo, the actual cost to the casino gaming licensee, its agent or employee, or a person controlling, controlled by, or under common control with the licensee, of any personal property distributed as losses to patrons may be deducted from winnings (other than costs of travel, lodging, services, food, and beverages) if the licensee maintains detailed documents supporting the deduction.

(f) If the casino gaming licensee provides periodic payments to satisfy a payout resulting from a wager, the initial installment payment when paid and the actual cost of a payment plan approved by the Commission and funded by the licensee may be deducted from winnings. For any funding method which merely guarantees the licensee's performance and under which the licensee makes payments directly out of cash flow (e.g., irrevocable letters of credits, surety bonds, or other similar methods), the licensee may only deduct such payments when paid to the patron.

(g) The casino gaming licensee shall not exclude money paid out on wagers that are knowingly accepted by the licensee in violation of the Commonwealth Code or these regulations from gross revenue.

(h) If in any month the amount of casino gross gaming revenue is less than zero dollars, the licensee may deduct the excess in the succeeding months, until the loss is fully offset against casino gross gaming revenue.

(i) Payout receipts and wagering vouchers issued at a game or gaming device shall be deducted from gross revenue as jackpot payouts in the month the receipts or vouchers are issued by the game or gaming device. Payout receipts and wagering

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vouchers deducted from gross revenue that are not redeemed within sixty days of issuance shall be included in gross revenue. An unredeemed payout receipt or wagering voucher previously included in gross revenue may be deducted from gross revenue in the month redeemed. For purposes of this section, the term "slot machine" means a gaming device for which gross revenue is calculated pursuant to the method described under subsection (b). Such receipts and wagering vouchers shall be deemed expired if not redeemed on or before the expiration date printed on the payout receipt or wagering voucher or within 180 days of issuance, whichever period is less. Licensees may redeem expired receipts and wagering vouchers in their sole discretion but may not deduct amounts paid out from gross revenue.

(j) A record of all expired payout receipts and wagering vouchers shall be created and maintained in accordance with the record keeping requirements set forth by the Commission.

(k) Any amounts paid or rebated to players or patrons in the form of comps, commissions or the like are a cost of doing business and shall not be deducted from gross revenue.

Modified, 1 CMC § 3806(a), (d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission renumbered the second subsection (j) to (k) pursuant to 1 CMC § 3806(a).

§ 175-10.1-560 Minimum Bankroll Requirements.

(a) The Commission may adopt or revise a bankroll formula that specifies the minimum bankroll requirements applicable to the casino gaming licensee, along with instructions for computing available bankroll. The formula adopted by the Commission may require the licensee to maintain a number of days of cash on hand, utilize a debt-to service ratio, or utilize any other ratio the Commission deems fit.

(b) The casino gaming licensee shall maintain in accordance with the bankroll formula adopted by the Commission pursuant to the requirements of this section, cash or cash equivalents in an amount sufficient to reasonably protect the licensee's patrons against defaults in gaming debts owed by the licensee. If at any time the licensee's available cash or cash equivalents should be less than the amount required by this section, the licensee shall immediately notify the Commission of this deficiency and shall also detail the means by which the licensee shall comply with the minimum bankroll requirements. Failure to maintain the minimum bankroll required by this section or failure to notify the Commission as required by this section, is an unsuitable method of operation.

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(c) Records reflecting accurate, monthly computations of bankroll requirements and actual bankroll available shall be maintained by the casino gaming licensee, and mailed to the Commission monthly.

(d) The casino licensee shall maintain an unencumbered irrevocable letter of credit from a financial institution acceptable to the Commission in the amount of fifteen million dollars ($15,000,000), or some other higher amount required by the Commission, to ensure payment to winning players.

(e) The casino licensee shall not accept any wager for which it does not have funds readily available to pay.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-565 Treatment of Credit for Purposes of Computing Gross Revenue.

(a) The casino gaming licensee shall:
(1) Document, prior to extending gaming credit, that it:
(i) Has received information from a bona fide credit-reporting agency that the patron has an established credit history that is not entirely derogatory; or
(ii) Has received information from a legal business that has extended credit to the patron that the patron has an established credit history that is not entirely derogatory; or
(iii) Has received information from a financial institution at which the patron maintains an account that the patron has an established credit history that is not entirely derogatory; or
(iv) Has examined records of its previous credit transactions with the patron showing that the patron has paid substantially all of his credit instruments and otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or
(v) Was informed by another licensee that extended gaming credit to the patron that the patron has previously paid substantially all of the debt to the other licensee and the licensee otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal; or
(vi) If no credit information was available from any of the sources listed in subsections(a)(1)(i)–(v) for a patron who is not a resident of the United States, the licensee has received, in writing, information from an agent or employee of the licensee who has personal knowledge of the patron's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;
(vii) In the case of personal checks, has examined and has recorded the patron's valid driver's license or, if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks, and has recorded a bank check guarantee card number or credit card number or has documented one of the credit checks set forth in subsections (a)(1)(i)–(vi);

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(viii) In the case of third party checks for which cash, chips, or tokens have been issued to the patron or which were accepted in payment of another credit instrument, has examined and has recorded the patron's valid driver's license, or if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks and has, for the check's maker or drawer, performed and documented one of the credit checks set forth in subsections (a)(1)(i)–(vi);

(ix) In the case of guaranteed drafts, has complied with the issuance and acceptance procedures promulgated by the issuer.

(2) Ensure that the patron to whom the credit is extended either signs the credit instrument when credit is extended;

(3) Obtain and record the patron's address before extending the credit.

(b) The casino gaming licensee shall, after extending credit, document that it has attempted to collect payment from the patron at least once on or before the ninetieth day from the issuance of credit and thereafter once every thirty days until it is collected.

(c) The casino gaming licensee shall furnish the credit instrument to the Commission within thirty days after the Commission's request, unless the licensee has independent, written, and reliable verification that the credit instrument is in the possession of a court, governmental agency, or financial institution; has been returned to the patron upon partial payment of the instrument; has been returned to the patron upon the licensee's good faith belief that it had entered into a valid settlement and the licensee provides a copy of the original credit instrument and a document created contemporaneously with the settlement that contains the information required by this section; has been stolen and the licensee has made a written report of the theft to an appropriate law enforcement agency, other than the Commission having jurisdiction to investigate the theft; or the Chairman waives the requirements of the subsection because the credit instrument cannot be produced because of any other circumstances beyond the licensee's control.

(1) Theft reports made pursuant to subsection (c) must be made within thirty days of the licensee's discovery of the theft and must include general information about the alleged crime, the amount of financial loss sustained, the date of the alleged theft, and the names of employees or agents of the licensee who may be contacted for further information. The licensee shall furnish to the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ a copy of theft reports made pursuant to this paragraph within thirty days of its request.

(2) If the licensee has returned a credit instrument upon partial payment, consolidation, or redemption of the debt, it shall issue a new "substituted" credit instrument in place of the original and shall furnish the substituted credit instrument to the Commission within thirty days of its request, unless the licensee has independent, written, and reliable verification that the substituted credit instrument cannot be produced because it is in the possession of a court, governmental agency, or financial institution; has been stolen and the licensee has made a written report of the theft to an appropriate law enforcement agency, other than the Commission, having jurisdiction to investigate the theft; or the Commission waives the requirements of subsection (c)(2)

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because the substituted credit instrument cannot be produced because of any other circumstances beyond the licensee's control.

(d) The casino gaming licensee shall submit a written report of a forgery, if any, of the patron's signature on the instrument to an appropriate law enforcement agency, other than the Commission, having jurisdiction to investigate the forgery. The report must include general information about the alleged crime, the amount of financial loss sustained, the date of the alleged forgery, and identification of employees or agents of the licensee who may be contacted for further information. The licensee shall furnish a copy of forgery reports made pursuant to this paragraph to the Division of Audit, Division of Compliance, and/or~~divisions of Audit and Compliance and t~~ the Division of Enforcement & Investigations within thirty days of its request.

(e) The casino gaming licensee shall permit the Commission within thirty days of its request to confirm in writing with the patron the existence of the debt, the amount of the original credit instrument, and the unpaid balance, if any.

(f) The casino gaming licensee shall retain all documents showing, and otherwise make detailed records of, compliance with this subsection, and furnish them to the Division of Audit and/or Division of Compliance ~~Divisions of Audit and Compliance~~ within thirty days after its request.

(g) The casino gaming licensee shall include in gross revenue all or any portion of any paid balance on any credit instrument.

(h) The casino gaming licensee shall include in gross revenue all of an unpaid balance on any credit instrument unless the Commission determines that, with respect to that credit instrument, the licensee has complied with the requirements of this part and these regulations and that the public interest will be served if the unpaid balance is not included in gross revenue.

Modified, 1 CMC § 3806(a), (d)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission renumbered the first (d) to (c) pursuant to 1 CMC § 3806(a). The Commission substituted "subsection (c)" for "this paragraph" in (c)(1) and "subsection (c)(2)" for "this subparagraph" in (c)(2) pursuant to 1 CMC § 3806(d).

§ 175-10.1-570 Handling of Cash.

(a) Each gaming employee, owner, or licensee who receives currency of the United States (other than permitted tips or gratuities) from a patron in the gaming area of a gaming establishment shall promptly place the currency in the locked box in the table or, in the case of a cashier, in the appropriate place in the cashier's cage, or on those games which do not have a locked box or on card game tables, in an appropriate place on the table, in the cash register, or other repository approved by the Commission.

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(b) For every payment of United States or foreign currency received by the casino licensee, or any of its agents, officers, directors, members, employees, or affiliates, outside of the United States in relation to a gaming debt owed to the casino gaming licensee or a casino gaming-related deposit made to the casino gaming licensee, a Currency Payment/Deposit Report that has been adopted by the Executive Director must be submitted to the Commission within thirty (30) days after the receipt of such payment or deposit.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-580 Petitions for Redetermination; Procedures.

(a) A licensee filing a petition for redetermination with the Commission shall serve a copy of the petition on the Executive Director, the Secretary of Finance and the Attorney General, and pay the petition fee listed in § 175-10.1-1225(e)(2).

(b) A licensee shall, within thirty days after the petition is filed:

(1) Pay all taxes, fees, penalties, or interest not disputed in the petition, and submit a schedule to the Division of Audit and/or Division of Compliance ~~divisions of Audit and Compliance~~ that contains its calculation of the interest due on non-disputed assessments;

(2) File with the Commission a memorandum of points and authorities in support of a redetermination, and serve a copy of the memorandum on the Executive Director, the Secretary of Finance and the Attorney General; and

(3) File with the Commission a certification that it has complied with the requirements of subsections (a) and (b).

(c) The Executive Director shall, within thirty days after service of the licensee's memorandum, file a memorandum of points and authorities in opposition to the licensee's petition and shall serve a copy on the licensee. The licensee may, within fifteen days after service of the Executive Director's memorandum, file a reply memorandum.

(d) The Executive Director and the licensee may stipulate to extend the time periods specified in this section if their stipulation to that effect is filed with the Commission before the expiration of the pertinent time period. The Commission may extend the time periods specified in this section upon motion and for good cause shown.

(e) The Commission may, at its discretion, deny a petition for redetermination if the licensee fails to comply with the requirements of this section or these regulations.

Modified, 1 CMC § 3806(d)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-590 Compliance Committee.

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(a) The licensee shall develop and maintain a Compliance Committee to ensure compliance with the Bank Secrecy Act (BSA), all applicable Internal Revenue Service laws and policies, all federal and Commonwealth laws and regulations, the Minimum Internal Control Standards, and the licensee's Internal Controls. The Compliance Committee shall report to the Chief Executive Officer of the licensee.

(b) The Committee must have at least one independent person, acceptable to the Commission, not employed by the Company, (but who may be a paid outside consultant to the Company), who must have knowledge of applicable gaming laws and regulations. Notwithstanding the non-employee status of the independent member(s), the Executive Director may require the independent member(s) to secure licensure as if they were casino key employees. ~~or vendors~~.

(c) The Committee shall report to the Commission the finding of any violation of any applicable law, regulation, or internal control standard as well as the action recommended by the Committee and action taken by the licensee to correct the violation.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-595 Additional Documents for Ongoing Financial Suitability.

(a) As part of the Commission's process to monitor the ongoing financial suitability of the Casino Gaming Licensee, the Commission requires that the Casino Gaming Licensee submit to the Commission, on an annual basis, a Projected Cashflow Statement and an Operational Budget Schedule within 30 days before the beginning of the projected calendar year. Furthermore, the Commission requires that the Casino Gaming Licensee submit to the Commission, within 30 days after each calendar quarter, updated reports comparing the projected amounts to the actual amounts for the prior quarter(s) of the projected year and provide explanations for any variances between the projected and actual amounts of greater than + or - twenty-five percent (25%).

(b) On the tenth of each month, the Casino Gaming Licensee shall submit to the Commission all monthly capital investment expenditures with supporting documentations to satisfy the two billion dollar <u>($2,000,000,000)</u> minimum initial investment requirement as mandated by 4 CMC § 2306(e).

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 40308 (Oct. 28, 2017); Adopted 40 Com. Reg. 40566 (Feb. 28, 2018); Proposed 39 Com. Reg. 40308 (Oct. 28, 2017).

Part 600 - CASINO LICENSE

<u>§ 175-10.1-601 Casino License Agreement Compliance.</u>

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The casino licensee shall comply with the requirements as set forth in the Casino License Agreement, and all amendments made thereto, entered into between the Commonwealth Lottery Commission and the casino gaming licensee. Failure to comply is an unsuitable method of operation and a major offense subject to penalty, including but not limited to license revocation.

~~**§ 175-10.1-601 Commission Authority over the Casino License.**~~

~~The Commission has the authority for the approval of all casino operations and gaming activities conducted under the casino license granted by the Lottery Commission including, but not limited to the establishment of gaming rules and regulations. The authority of the Commission includes the ability to suspend or revoke the casino license for violation of the regulations or the Act.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~**§ 175-10.1-605 Term of the Casino License.**~~

~~(a) The casino license is valid for an initial term of twenty-five years starting on the license issuance date of August 12, 2014 and ending at 11:59 p.m. on August 11, 2039.~~

~~(b) The casino licensee has an option to extend the initial term for an additional consecutive period of fifteen years prior to the expiration of the initial term.~~

~~Modified, 1 CMC § 3806(e)-(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~**§ 175-10.1-610 Annual License Fee.**~~

~~(a) The annual license fee for the casino license shall be fifteen million dollars.~~

~~(b) The annual license fee shall be paid every year to the Commonwealth Treasurer each August 12th for the entire term of the casino license, except for any pre-payments of the annual license fee for any particular year as required by law or other agreement, in which case payment for such particular year will not be required.~~

~~(c) The annual license fee amount shall be adjusted every five years based on the cumulative change in the consumer price index announced by the Commonwealth Department of Commerce for the island of Saipan since the license issuance date.~~

~~Modified, 1 CMC § 3806(e)-(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~**§ 175-10.1-615 Pre-payments of Annual License Fee.**~~

~~(a) Pursuant to Public Law 18-56, the licensee has prepaid thirty million dollars of~~

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~~the annual license fees reflecting payments of year one and prepayment of year five of the license term.~~

~~(b) Licensee shall pay five million dollars of the annual license fee for the second year within fifteen days after the Commission authorizes the temporary live training facility and the remaining ten million dollars of the annual license fee for the second year within fifteen days of the execution of the public land lease between the Department of Public Lands and licensee for the area commonly known as the Samoan Housing in Garapan for construction of the initial gaming facility referred to in § 175-10.1-635. Both payments shall be made prior to August 12, 2015 and shall comprise full payment for the second year of the annual license fee.~~

~~(c) Additionally, the licensee agrees to make a pre-payment of the annual license fee for the eighth year of the license term, being a minimum of fifteen million dollars within sixty days from the opening of the initial gaming facility referred to in § 175-10.1-635.~~

~~(d) In every case of pre-payment of the annual license fee for any particular year, there will be no requirement for payment of the annual license fee for such particular year except for any adjustment based on the change in the consumer price index referred to in § 175-10.1-610(c).~~

~~Modified, 1 CMC § 3806(e) (g).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-620 Licensee Assurances.~~

~~(a) The award of the casino license to Imperial Pacific International (CNMI) LLC as a licensee was based on the information and assurances provided by the licensee in: (1) the casino resort developer application that was submitted by the licensee in April 2014; (2) the subsequent business plan that was submitted in May 2014 ("Business Plan"), and information provided to Commonwealth Consultants (collectively "Licensee Proposal and Assurances"). The Commonwealth has relied on the accuracy and trustworthiness of the Licensee Proposal and assurances in the awarding of the casino license and they were incorporated as a material element of the casino license agreement.~~

~~(b) All of the terms, promises and assurances provided in the Licensee Proposal and assurances are binding on Imperial Pacific International (CNMI) LLC, as the casino gaming licensee. These terms, promises and assurances include, but are not limited to the following specific proposed new construction development requirements:~~
~~(1) 2,004 hotel guest rooms;~~
~~(2) 17,000 square meters of total gaming floor area;~~
~~(3) 13,532 square meters of food and beverage outlets (at least 23 outlets);~~
~~(4) 15,000 square meters of retail space;~~
~~(5) 600 seat theatre;~~
~~(6) 9,094 square meters of meeting space including ballroom;~~
~~(7) Wedding chapel;~~

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~~(8) 200 villas;~~
~~(9) 1,050 square meters of fitness area;~~
~~(10) $100,000,000 themed entertainment facility; and~~
~~(11) 1,900 square meters of spa facility,~~
~~(collectively "Licensee Development Proposal Requirements" or "Proposal Requirements").~~

~~(c) The casino gaming licensee is solely responsible for obtaining all required government approvals, permits and licenses required to honor its obligation to construct the Proposal Requirements.~~

~~(d) Nothing in this Part prohibits the casino gaming licensee from developing beyond the requirements of the licensee development proposal requirements ("Licensee Additions").~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-625 Development Sites.~~

~~(a) The casino gaming licensee is authorized to use up to a total of three development sites to obtain the required land necessary for the full development of the initial gaming site, licensee development proposal requirements, and any licensee additions.~~

~~(b) All gaming activities authorized under the casino license are strictly limited to the approved development sites and the Temporary Facility referred to in Part 800.~~

~~(c) All development at these three development sites is to be done in a manner that balances the need for protection of island culture environment and the need for economic development. Development shall be done in a manner that preserves, enhances, and is consistent with maintaining a serene island culture environment.~~

~~(d) The term development site is defined as a single parcel of property or a grouping of adjoining connected parcels that presents a unified uninterrupted parcel that is under the control of the licensee. Individual parcels controlled by the licensee that are separated only by a public right of way shall be considered as a single development site.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-630 Integrated Resort (Phase One).~~

~~(a) The casino licensee shall build an integrated resort as Phase one ("Phase One") of the licensee development proposal requirements. For purposes of this license agreement, the term "Integrated Resort" is defined as a large commercial endeavor in which multiple~~

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~~functions of: accommodations, entertainment, retail, service providers, and casino facilities are integrated at a single development site. The total area where actual gaming takes place shall be no more than 20%of the gross floor area of the integrated resort.~~

~~(b) All structures and associated elements of the integrated resort required herein are to be of a uniformly high luxury standard. All guest rooms shall be of similar quality as established by Triple AAA lodging criteria standards for four or five star developments, with associated guest services of similar quality.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-635 Initial Gaming Facility.~~

~~(a) The casino licensee shall construct or refurbish an initial gaming facility which is a structure with guest rooms and services of five star quality.~~

~~(b) The initial gaming facility shall have a minimum of 250 rooms.~~

~~(c) The structures associated with the initial gaming facility shall be considered as one of the allowed development sites referred to in § 175-10.1-625.~~

~~(d) The initial gaming facility must be fully constructed and operations must begin no later than August 31, 2018.~~

~~Modified, 1 CMC § 3806(e) (g).~~

~~History: Amdts Adopted 40 Com. Reg. 40560 (Jan. 28, 2018); Amdts Proposed 39 Com. Reg. 39755 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-640 Development Requirements (Phase One).~~

~~(a) Phase One shall result in the establishment of a fully functional integrated resort and include at a minimum the following elements and associated support components at a single development site:~~
~~(1) An 800 room four or five star luxury hotel;~~
~~(2) A $100,000,000 themed entertainment facility with amphitheater;~~
~~(3) 5,372 square meters of food and beverage outlets;~~
~~(4) 2,500 square meters of meeting space (including indoor seating space for 600 persons);~~
~~(5) 5,000 square meters of retail shops;~~
~~(6) Wedding chapel;~~
~~(7) 500 square meter spa/fitness area;~~
~~(8) 10,000 square meters of gaming area (which includes back-of house areas); and~~
~~(9) Associated parking, site improvements, landscaping, furnishings, fixtures, utilities and infrastructure.~~

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~~(b) The casino licensee shall complete Phase One within thirty-six months of land acquisition but not later than January 12, 2018.~~

~~(c) Phase One must include the construction of a one hundred million dollar themed entertainment facility which may include show elements. The themed facility shall be an integral part of the unifying design of Phase One which shall be reflected throughout the integrated resort. The themed facility shall provide family entertainment that complements the proposed integrated resort as an iconic development. The themed facility shall reflect the high-end luxury style required in Phase One of the integrated resort.~~

~~(d) Failing to complete Phase One when required is an unsuitable method of operation. The Commission may take into account force majeure conditions outside the casino gaming licensee's control.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-645 Development Proposal Requirements (Phase Two).~~

~~(a) All the components of the licensee development proposal requirements that were not completed in phase one shall be completed by August 12, 2022.~~

~~(b) Failing to complete phase two when required is an unsuitable method of operation. The Commission may take into account force majeure conditions outside the casino gaming licensee's control.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-650 Liquidated Damages.~~

~~(a) The casino gaming licensee will pay a liquidated damage charge of one hundred thousand dollars per calendar day for any delay in achieving completion of Phase One or Phase Two of the project.~~

~~(b) The casino licensee shall pay all assessed liquidated damages within ten business days of imposition and receipt of notice from the Commonwealth.~~

~~(c) The casino licensee agrees that the liquidated damages are not fines or penalties.~~

~~(d) Failing to complete either Phase as required by the license agreement and these regulations is an unsuitable method of operation; failing to pay any liquidated damage when due is an unsuitable method of operation. The Commission may take into account force majeure conditions outside the casino gaming licensee's control.~~

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~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-655 Local Training and Hiring Requirement.~~

~~(a) The casino gaming licensee shall promote training and hiring of permanent United States residents in a proactive endeavor to achieve an objective of having citizens of the United States and permanent United States residents comprise at least 65% of all employees ("Resident Employment Objective").~~

~~(b) In furtherance of this requirement, the casino gaming licensee shall work with the Commonwealth Department of Labor to develop an annual plan ("Annual Plan") evaluating: employment needs, local condition and challenges, current residency status of employees, and the provision of a proactive plan to achieve the resident employment objective.~~

~~(c) This plan to achieve the resident employment objective shall include the funding by the casino gaming licensee of necessary training through local educational and trade institutions to provide required skills.~~

~~(d) The casino gaming licensee will provide quarterly reports to the Commission and the Department of Labor on progress in meeting the resident employment objective.~~

~~(e) Failing to file a report when due is an unsuitable method of operation.~~

~~(f) Failing to abide by the annual plan is an unsuitable method of operation.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-660 Community Benefit Fund.~~

~~(a) Within sixty days of commencing construction work on the first hotel in the integrated resort, the licensee shall contribute twenty million dollars towards its community benefits programs to benefit: education, scholarships, public infrastructure, health care, and government employee retirement benefits, as may be determined in consultation with the Governor.~~

~~(b) Thereafter, upon the first full year of operation of the casino gaming licensee's first hotel in the integrated resort, licensee shall annually contribute twenty million dollars to be used for community benefit programs to benefit: education, scholarships, public infrastructure, health care, and government employee retirement benefits, as may be determined in consultation with the Governor.~~

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~~(c) All funds contributed by the casino gaming licensee to the community benefit contribution shall remain under the possession and control of the casino gaming licensee until distributed to selected programs or recipients.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-665 Requirement for Compliance with Applicable Laws.~~

~~(a) The continuing validity of this casino gaming license is conditional upon the casino gaming licensee's compliance with applicable laws, rules, and regulations of the Commonwealth and the United States.~~

~~(b) The failure to comply with an applicable law, rule, or regulation of the Commonwealth or the United States or a minimum internal control standard or an internal control standard is an unsuitable method of operation; each noncompliant action or omission is a distinct violation subject to penalty.~~

~~(c) The casino gaming license shall be interpreted under the laws of the Commonwealth of the Northern Mariana Islands and the exclusive jurisdiction of the courts hereof.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-670 Transfer, Assignment, or Encumbrance Prohibited.~~

~~(a) Neither the casino gaming license nor the duties entailed may be transferred, encumbered, assigned, pledged, or otherwise alienated without the express written authorization of the Commission (collectively "license transfer") except in the case of encumbrances related to the casino gaming licensee financing by financing parties, agencies and institutions as may permitted by the Commission.~~

~~(b) In instances where the casino gaming license is to be encumbered in relation to financing, confidential notice shall be provided to the Commission. Encumbrance of this license for purposes of financing shall have no effect on authority of the Commission to suspend or revoke this license nor shall it provide an encumbering party the right to operate the associated facilities without specific Commission approval.~~

~~(c) Any attempted transfer or assignment without such consent and approval shall be void.~~

~~(d) Any such proposed license transfer shall be subject to thorough review to determine that it is not inconsistent with the intent of the Act or the regulations.~~

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~~(e) Any change in ownership of the casino gaming licensee shall be considered a license transfer except where the change of ownership or common control is that of a publicly held corporation that is traded on an established exchange, provided the increase in ownership or common control of an individual or entity is less than, or does not provide, 10% of total equity, control or shares of the licensee.~~

~~(f) Subject to the preceding requirements, any transfer of the casino gaming license shall bind the transferees to all terms and conditions of the transferor.~~

~~(g) Nothing in this section shall prevent the casino gaming licensee from contracting with independent agencies to perform designated functions subject to any required review and licensing requirements.~~

~~(h) The Commission may deem any person who owns or controls any percentage of the casino gaming licensee, or owns or controls any percentage of any entity which owns or controls the casino gaming licensee, unsuitable and suspend operations of the casino gaming licensee until such time as all persons who own or control the casino gaming licensee or any entity which owns or controls the casino gaming licensee are deemed suitable.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

~~§ 175-10.1-675 License Suspension or Revocation.~~

~~(a) The casino gaming licensee is bound to comply with all terms and conditions of The casino license and a violation of its requirements shall be considered a breach thereof. A material breach thereof is grounds for suspension or revocation of the casino license. Unless otherwise indicated in the license agreement, the procedures established by the Commonwealth Administrative Procedure Act shall apply to proceedings for suspension or revocation of the casino license.~~

~~(b) Any one or more of the following events shall constitute material breach of the license agreement ("material breach") and grounds for casino gaming license revocation or suspension as the Commission sees fit:~~
~~(1) Failure to pay any amount due and payable hereunder upon the date when such payment is due;~~
~~(2) Failure to materially comply with licensee development proposal requirements or the associated implementation schedules;~~
~~(3) Material violation of the laws of the Commonwealth or the United States;~~
~~(4) Failure to observe or perform any material obligation or covenant under the casino license agreement;~~
~~(5) Violation of material elements of the regulations established by the Commonwealth Casino Commission;~~
~~(6) Unauthorized transfer of the casino gaming license;~~
~~(7) The appointment of a receiver to take possession of all or substantially all of the~~

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~~casino gaming licensee's assets, or the filing of a voluntary or involuntary bankruptcy petition in bankruptcy by the casino gaming licensee or its creditors, if such appointment, assignment, or petition remains undischarged for a period of thirty days; and~~

~~(8) The appointment of a receiver to take possession of all or substantially all of the assets of the owner of the casino gaming licensee, or the filing of a voluntary or involuntary bankruptcy petition in bankruptcy by the owner of the casino gaming licensee or its creditors, if such appointment, assignment, or petition remains undischarged for a period of thirty days.~~

~~(c) Upon the occurrence of a material breach, the Commission may, but shall not be required to: (1) suspend or revoke the casino license agreement and some or all of the licenses granted pursuant to the Act and the regulations and or cancel all associated duties and obligations; or (2) pursue any other remedy available at law or in equity.~~

~~(d) The Commission may impose civil penalties for the violation of any provision of the Act or any regulation or order issued pursuant to the Act. No penalty may exceed fifty thousand dollars. The range of lesser penalties for minor, intermediate violations and major violations is in Part 2500. The Commission may suspend, reduce, or rescind any penalty imposed pursuant to this section and according to any and all due process protections.~~

~~(e) Notwithstanding the foregoing, the Commission shall not revoke or suspend this license agreement unless written notice to the licensee has been provided of the intention and the licensee has been provided an adequate and reasonable period to cure the issue identified.~~

~~(f) In the event of casino license revocation, any prepayment of the annual license Fee shall be forfeited to the Commonwealth.~~

~~(g) In the event of casino license revocation, the Commonwealth may institute any and all legal proceedings it deems appropriate in courts of its choosing to assert any and all claims against the former licensee and other parties.~~

~~Modified, 1 CMC § 3806(e) (f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

§ 175-10.1-705 The Casino.

Every casino on an approved development site shall:

(a) Contain closed circuit surveillance systems and security as approved by the Commission;

(b) Contain specifically designated and secure areas for the inspection, repair, and storage of gaming equipment as approved by the Commission;

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(c) Contain a ~~countroom~~count room and such other secure facilities as approved by the Commission for the inspection, counting, and storage of cash, coins, tokens, checks, dice, cards, chips, and other representatives of value;

(d) Contain such facilities in the ceiling of the casino room commonly referred to as an "eye-in-the-sky" appropriate to permit direct overhead visual surveillance of all gaming therein as approved by the Commission; provided, however, that the Commission may exempt from its requirements any casino room in any building if its satisfied that same contains an acceptable approved alternative and that such exemption would not be inimical to Commission;

(e) Contain a specially designated office, located on the casino floor, for the exclusive use by the Commission for administrative, enforcement and regulatory purposes as approved by the Commission. Such dedicated surveillance office shall include the use of such desks, chairs, monitors, camera controls, electronic video and audio recording devices, other reasonable accommodations and access to the approved surveillance system deemed necessary by the Commission for the Commission to properly enforce the applicable federal and Commonwealth laws and these regulations. The desks, chairs, monitors, camera controls, electronic video and audio recording devices, other reasonable accommodations and access to the approved surveillance system deemed necessary by the Commission provided to the Commission by the licensee for official use by the Commission remain at all times property of the licensee.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-805 Applicability of Regulations.

(a) The casino licensee may not begin operation of the temporary live training facility authorized by §175-10.1-801 until the Commission has promulgated all regulations necessary for the proper regulation of the temporary live training facility, and the Commission has informed the licensee, in writing, that it may proceed with live operations.

(b) Employees of the temporary live training facility must receive a license as if they were an employee of the casino gaming licensee pursuant to the regulations found in §175-10.1-1901 et seq. All regulations, restrictions and obligations which apply to casino employees and casino key employees apply to employees and key employees of the temporary live training facility.

(c) ~~Service providers~~Casino Gaming Vendors of the temporary live training facility must receive a license as if they were a ~~service provider~~gaming vendor of a casino licensee pursuant to the regulations found in §175-10.1-1301 et seq. All regulations,

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restrictions, and obligations which apply to casino ~~service providers~~gaming vendors apply to ~~service providers~~casino gaming vendors of the temporary live training facility.

(d) All regulations dealing with the casino gaming licensee and the operation of gaming by the casino gaming licensee apply to the operation of the temporary live training facility.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-905 Casino ~~Service Provider~~Gaming Vendor Licenses.

(a) No casino ~~service provider~~gaming vendor license ~~or vendor license~~ shall be issued unless the individual qualification of each of the following persons shall have first been established to the satisfaction of the Commission: Each such casino ~~service provider~~gaming vendor enterprise, its owners, its management personnel, its supervisory personnel, and its principal employees.

(b) Each person in subsection (a) must be qualified in accordance with the standards for casino employees found in § 175-10.1-920.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-920 Licensee Standards.

(a) General and Affirmative Criteria:
(1) It shall be the affirmative responsibility of each applicant for any license, certificate, finding, registration, or permit available under these regulations, or renewal thereof, and licensee to establish to the satisfaction of the Commission by clear and convincing evidence his individual qualifications;
(2) Any applicant or licensee shall truthfully and completely provide all information required and satisfy all requests for information pertaining to qualification;
(3) All applicants and licensees shall have the continuing obligation to provide any assistance or information required and to cooperate in any inquiry or investigation conducted by the Commission;
(4) Each applicant shall produce such information, documentation, and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability and integrity of the applicant including but not limited to bank references, business and personal income, tax returns, and other reports filed with governmental agencies;
(5) Each applicant shall produce such information, documentation, and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders and holders of indentures, notes or

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other evidence of indebtedness either proposed or in effect. The integrity of financial sources shall be judged upon the same standards as the applicant. The applicant shall produce whatever information documentation and assurances as may be required to establish the adequacy of financial resources to be entrusted with the privilege of conducting gaming in the Commonwealth;

(6) Each applicant shall produce such information, documentation, and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty, and integrity. Such information shall include but not be limited to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, personal, professional and business associates covering a five year period immediately preceding the filing of the application;

(7) Each applicant shall produce such information, documentation, and assurances to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience to establish the likelihood of the ability to abide by the Act and regulations; and

(8) Each applicant shall complete the form concerning child support promulgated pursuant to § 175-10.1-925.

(b) Disqualification Criteria. The Commission shall deny any license, certificate, finding, registration, permit or renewal thereof (if such renewal is permitted by the Commission or Executive Director), including but not limited to a casino key employee license or casino employee license to any applicant who is disqualified on the basis of any of the following:

(1) Failure of the application to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of the Act and the regulations to the satisfaction of the Commission.

(2) Failure of the applicant to provide truthful and complete information, documentation, or assurances requested by the Commission or failure of the applicant to reveal any fact material to qualification or the supplying of information which is untrue or misleading as to any material fact.

(3) Conviction of the applicant or any person required to be qualified, of any offenses in any jurisdiction which would be the same or similar as:

(i) 6 CMC § 1101, Murder or 6 CMC § 1102, Manslaughter;

(ii) 6 CMC § 1203, Aggravated Assault or Battery and 6 CMC 1203, Assault with A Dangerous Weapon;

(iii) 6 CMC § 1301, Sexual Assault in the First Degree; 6 CMC § 1302, Sexual Assault in the Second Degree; or 6 CMC § 1303, Sexual Assault in the Third Degree;

(iv) 6 CMC § 1306, Sexual Assault of a Minor in the First Degree; 6 CMC § 1307, Sexual Assault of a Minor in the Second Degree; or 6 CMC § 1308, Sexual Assault of a Minor in the Third Degree

(v) 6 CMC § 1314, Unlawful Exploitation of a Minor;

(vi) 6 CMC § 1323, Child pornography;

(vii) 6 CMC § 1411, Robbery;

(viii) 6 CMC § 1421, Kidnapping;

(ix) 6 CMC § 1471, Stalking in the First Degree;

(x) 6 CMC § 1501 et seq., Anti-Trafficking Act (any count);

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(xi) 6 CMC § 1601 et seq., Theft (any count punishable by 6 CMC § 1601(b)(1)–(2));
(xii) 6 CMC § 1609, Theft of Utility Services (any count punishable by 1609(d)(1)–(3));
(xiii) 6 CMC § 1701 et seq., Forgery and Related Offenses (any count 6 CMC §§ 1701–1707);
(xiv) 6 CMC § 1722, Identity Theft and 6 CMC § 1723, Aggravated Identity Theft;
(xv) 6 CMC § 1801, Burglary
(xvi) 6 CMC § 1802, Arson and Related Offenses
(xvii) 6 CMC § 2141, Drug Trafficking punishable by 6 CMC § 2141(b) (except THC or marijuana)
(xviii) 6 CMC § 1142, Drug Possession punishable by 6 CMC § 2141(b) (excludes marijuana)
(xix) 6 CMC § 2103, Importation of Contraband
(xx) 6 CMC § 3113, Terroristic Threatening
(xxi) 6 CMC § 2141(a) and (b)(1), Offenses and penalties for illegal drug use
(xxii) 6 CMC § 2143, Commercial offenses-drugs offenses
(xxiii) 6 CMC § 3155, Gambling offenses prohibited
(xxiv) 6 CMC § 3201, Bribery
(xxv) 6 CMC § 3302, Obstructing justice
(xxvi) 6 CMC § 3303, Obstructing justice-interference of services
(xxvii) 6 CMC § 3304, Tampering with judicial records or process
(xxviii) 6 CMC § 3305, Tampering with jury
(xxix) 6 CMC § 3366, Perjury
(xxx) 6 CMC § 3501 et seq., Terrorism (any charge)

(4) Any other offenses under CNMI law, federal law, or any other jurisdiction which indicates that licensure of the applicant would be inimical to the policy of the Commission and to casino operations; however, that the automatic disqualification provisions of subsection (b) shall not apply with regard to any conviction which did not occur within the five-year period immediately preceding the application for licensure for a casino employee or casino ~~service provider~~gaming vendor, or within 10 years for a casino key employee license, a junket operator license, or any other class of licensee the Commission may by order determine, or any conviction which has been the subject of an executive pardon or judicial order of expungement. The five-year period and ten-year period are calculated beginning from the day after the convict's last day of post-conviction supervision (including probation or parole or required registry as a sex offender under federal, Commonwealth, territorial, state, or tribal law). Convictions which occurred outside the five-year period immediately preceding the application for licensure, convictions which were pardoned, and convictions that were expunged may still be considered by the Commission as evidence of unsuitability for licensure.

(5) Current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this regulation for any of the offenses enumerated above; provided, however that at the request of the applicant or person charged, the Commission shall defer discussion upon such application during the pendency of such charge.

(6)(i) The identification of the applicant or any person who is required to be qualified under this regulation as a career offender or a member of a career offender cartel or an

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associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policies of the rules and regulations and a casino operations.

(ii) For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal of the public policy of the Commonwealth. A career offender cartel shall be defined as any group of persons who operate together.

(7) The applicant or any person who is required to be qualified under the rules and regulations as a condition of a gaming license may be denied for commission of any act or acts which would constitute any offense under subsections (b)(3) or (b)(4), even if such conduct has not or may not be prosecuted under the criminal laws of the CNMI.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 40308 (Oct. 28, 2017) and 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-925 Licensee, Certificate or Permittee Standards (Child Support).

(a) The Executive Director shall promulgate a form which provides the applicant for any license, certificate, registration, or permit available under the Act or these regulations, or renewal thereof, with an opportunity to indicate, under penalty of perjury, that:

(1) The applicant is not subject to a court order for the support of a child;

(2) The applicant is subject to a court order for the support of one or more children and is in compliance with the order or is in compliance with a plan approved by the Attorney General or his designee or other public agency enforcing the order for the repayment of the amount owed pursuant to the order; or

(3) The applicant is subject to a court order for the support of one or more children and is not in compliance with the order or a plan approved by the Attorney General or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

(b) The form referred to in subsection (a) shall include: (1) an explanation that "court order" includes any court of competent jurisdiction and not just the courts of the Commonwealth; (2) a statement that the application for the issuance or renewal of the license, certificate, or permit will be denied if the applicant does not indicate on the statement which of the provisions of subsection (a)(1)–(3) applies to the applicant; and (3) a space for the signature of the applicant. The failure of the form to strictly comply with this requirement does not invalidate the form used by the Executive Director or release the applicant from the requirement of providing truthful and complete information.

(c) Disqualification Criteria: Child Support. The Commission shall deny any license, certificate, finding, or permit available pursuant to these regulations or any renewal

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thereof, including but not limited to casino key employee licenses or casino employee licenses to any applicant who: (1) fails to submit the statement required pursuant to § 175-10.1-920(a)(8), or (2) indicates on the statement submitted pursuant to § 175-10.1-920(a)(8) that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the Attorney General or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

(d) The Executive Director shall object to the licensure of, or seek the revocation of any license, certificate, finding, registration, or permit available under these regulations of any person found to have provided incomplete or untruthful information on the statement required by § 175-10.1-920(a)(8).

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed "subsection (a)(8)" to "§ 175-10.1-920(a)(8)" in (c) pursuant to 1 CMC § 3806(d).

§ 175-10.1-930 Casino Non-Gaming Vendor~~Vendor~~ Registration~~Licensee~~.

The Commission may, by order, provide for the ~~licensing~~ registration of other types of individuals (other than patrons) who the Commission determines should be registere~~license~~d because of their association with or presence in the casino, and set and charge fees therefore. Such registrants~~licensees~~ shall be held to the standards of § 175-10.1-920.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1015 Procedures for Enrollment.

(a) An attorney or accountant meeting the qualifications described in § 175-10.1-1010(a)(1)–(2) shall be deemed automatically enrolled at the time the attorney or accountant first appears for or performs any act of representation on behalf of a client in any matter before the Commission.

(b) Other individuals must submit an application for enrollment to the Commission together with proof of eligibility for enrollment. The Commission will consider the application at a public meeting, and may either grant or deny the application, or request additional information from the applicant. Only natural persons may enroll to practice before the Commission.

(c) Prior to enrollment, any person other than one described in § 175-10.1-1010(a)(1)–(2) must pay an enrollment application fee of five hundred dollars ($500) and two hundred fifty dollars ($250) on every October 1 thereafter.

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Modified, 1 CMC § 3806(d)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed "(a)(1) or (a)(2) above" to "§ 175-10.1-1010(a)(1)–(2)" in (c) pursuant to 1 CMC § 3806(d).

§ 175-10.1-1035 Reinstatement.

(a) Any attorney or accountant whose enrollment is suspended under § 175-10.1-030(a)(1) shall be deemed automatically reinstated to practice before the Commission at the time he is reinstated to practice law or accounting by the applicable licensing authority.

(b) Any agent whose enrollment is suspended or revoked under § 175-10.1-030(b) may be reinstated by the Commission, upon application, if the grounds for the suspension or revocation are subsequently removed by a reversal of the conviction, or for other good cause shown. An applicant for reinstatement shall be afforded an opportunity for a hearing before the Commission on the application, and shall pay all reasonable costs of the proceeding and a new enrollment fee of five hundred dollars ($500).

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1120 Inspection, Monitoring, and Periodic Investigations.

The Commission or its authorized representatives may inspect and monitor at any time, the licensed premises of a licensed casino and the premises of any casino ~~service provider~~gaming vendor licensee or casino non-gaming vendor~~vendor~~ registrant~~licensee~~. The Commission must investigate, not later than one year after the commencement of operations in a casino or temporary live training facility, and thereafter at intervals of its choosing the following:

(a) Whether or not the casino gaming licensee is a suitable person to continue to hold a casino license;

(b) Whether or not the casino gaming licensee is complying with these regulations, the Act and any applicable law or regulation;

(c) Whether or not the casino gaming licensee is complying with the casino license issued by the Lottery Commission;

(d) Whether or not the casino gaming licensee, casino employees or casino ~~service~~

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~~providers~~gaming vendor licensee or casino non-gaming vendor~~vendor~~ registrant ~~licensee~~ are complying with all agreements which are required under these regulations and the Act and any subsequent amendments thereto;

(e) Whether or not it is in the public interest that the casino gaming licensee or casino ~~service~~ gaming ~~provider~~ vendor licensees or casino non-gaming vendor~~vendor~~ registrant~~licensee~~ should continue in force.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1130 Consent to Examination of Accounts and Records.

(a) Each applicant and licensee shall, in writing consent to the examination of all accounts, bank accounts, and records in his possession or under his control and authorize all third parties in possession or with control of such accounts or records to allow such examination thereof as may be deemed necessary by the Commission.

(b) The casino gaming licensee must sign an authorization to inspect its bank account records upon demand of the Commission.

(c) The casino gaming licensee must maintain an account in a bank in the CNMI or in the United States of America into which are deposited its revenues from all gaming activities. Said deposits must be made within ~~five~~ fifteen working days of receipt of said revenues by the casino licensee. Said deposits must be made into the domestic or United States bank account within ~~five~~ fifteen working days of receipt of said revenues by the licensee's parent company or any affiliate thereof, if the Commission or Executive Director by Order allow receipt of funds by the parent company or an affiliate.

(d) The Commission may waive any or all of these requirements as it deems prudent.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Part 1200 - FEES

§ 175-10.1-1201 General Description of Fees and Deposit Policy.

(a) The Commission shall establish fees for the application issuance and renewal of all licenses pursuant to the Act.

(b) The differing treatment of these license categories reflects a recognition and

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judgment that casino applicants and licensees benefit directly or indirectly from all aspects of the regulatory process and are best suited to bear the largest share of the costs incurred by the Commission in implementing that process. Moreover, the actual cost of investigation and considering applications for individual employee licenses and casino ~~service provider~~gaming vendor licenses may exceed the amount which those applicants and licensees may fairly be required to pay as fees. The fee structure established by these rules and regulations is designed to respond to these policies and problems.

(c) To the extent reasonably possible, each applicant or licensee should pay the investigatory or regulatory costs attributable to their application or license.

(d) Unless otherwise specifically exempted by the Commission, all application fees are fully earned when received by the Commonwealth Treasury or the Commission. The withdrawal of the application by the applicant or the denial of the license by the Commission is not grounds for a rebate of any portion of any application fee.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1215 Special Fee Assessments for Other Purpose.

All investigation fees required of the casino licensee, persons who have ownership of the entity which owns or controls the casino licensee, potential transferees, ~~service providers~~gaming vendors, non-gaming vendors~~vendors~~, junket operators, casino key employees, and casino employee must be shouldered by the applicant or employer of the applicant. In cases where further investigation is warranted, the Commission may require additional funds for the completion of the investigation process. The Commission may impose other additional fees as it deems necessary.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1225 Schedule of Fees.

(a) Calculation of casino regulatory fee: The casino regulatory fee will be a flat fee at a fixed rate of three million dollars annually ($3,000,000) with a 5% increase every five years for the following twenty years. After the twentieth year, the maximum casino regulatory fee will be reached and maintained for the remaining duration until the end of the exclusive casino license term, including all extensions of the casino license.

(b) Casino non-gaming vendor~~vendor~~ registration~~license~~. No casino non-gaming vendor~~vendor~~ registration~~license~~ shall be issued or renewed unless the applicant shall have first paid in full a ~~license~~ registration fee of two thousand dollars ($2,000) for the duration of the current ~~fiscal~~ year and the next two ~~fiscal~~ years thereafter. A renewal fee must be remitted, in full, thirty (30) days prior to the expiration of its current

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~~license~~registration. ~~to the Commission by October 1st of the third fiscal year after the original application and every third October 1st thereafter.~~

(c) Casino ~~service provider~~gaming vendor license. No casino ~~service provider~~gaming vendor license shall be issued or renewed unless the applicant shall have first paid in full a license fee of five thousand dollars ($5,000) for the duration of the current fiscal year and the next fiscal year thereafter. A biannual renewal fee must be remitted, in full, to the Commission by October 1st of the second fiscal year after the original application and every second October 1st thereafter.

(d) Other Fees:
(1) Fee for provisional ~~service provider~~gaming vendor license is two thousand five hundred dollars ($2,500)~~($500)~~.
(2) License replacement fee is twenty dollars ($20).
(3) Agent enrollment fee is five hundred dollars ($500).
(4) Declaratory ruling notification list fee is one hundred dollars ($100).~~.~~
~~(5) Fee for Provisional casino vendor license is one thousand dollars.~~
(5~~6~~) Other fees may be assessed by the Commission as deemed appropriate and/or listed in a Supplemental Statement of Fees published by the Commission.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Part 1300 - CASINO ~~SERVICE PROVIDERS~~GAMING VENDORS AND CASINO NON-GAMING VENDORS

§ 175-10.1-1301 Definitions.

The following words and terms, when used in this part, have the following meaning unless otherwise indicated.

(a) "Gaming equipment" means any mechanical, electrical, or electronic contrivance or machine used in connection with gaming or any game and includes, without limitation, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, chips, plaques, card dealing shoes, drop boxes, and other devices, machines, equipment, items, or articles determined by the Commission to be so utilized in gaming as to require licensing of the manufacturers, distributors, or services or as to require Commission approval in order to contribute to the integrity of the gaming industry.

(b) "Gaming equipment distributor" means any person who distributes, sells, supplies, or markets gaming equipment.

(c) "Gaming equipment industry" means any gaming equipment manufacturer, and any producers or assemblers of gaming equipment(s).

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(d) "Gaming equipment manufacturer" means any person who manufactures gaming equipment.

(e) "Gaming equipment servicer" means any person who maintains, services, or repairs gaming equipment.

(f) "Sales representative" means any person owning an interest in, employed by, or representing a casino ~~service provider~~gaming vendor or enterprise, who solicits the goods and services or business thereof.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1305 ~~Service Provider~~Gaming Vendor ~~and Vendor~~ License and Non-Gaming Vendor~~Vendor~~ Registration ~~Requirements.~~

(a) Except as otherwise provided for herein, any enterprise that provides goods or services related to, or transacts business related with, casino or gaming activity with the casino licensee, its employees or agents must be licensed by the Commission. The following enterprises must also be licensed as a casino ~~service provider~~gaming vendor:
(1) Any form of enterprise which manufactures, supplies, or distributes devices, machines, equipment, items, or articles specifically designed for use in the operation of a casino or needed to conduct a game including, but not limited to, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, gaming chips, gaming plaques, slot tokens, card dealing shoes, and drop boxes; or
(2) Any form of enterprise which provides maintenance, service, or repair pertaining to devices, machines, equipment, items, or articles specifically designed for use in the operation of a casino or needed to conduct a game; or
(3) Any form of enterprise which provides service directly related to the operation, regulation, or management of a casino including, but not limited to, gaming schools teaching gaming and either playing or dealing techniques, casino security enterprises, casino credit collection enterprises; or
(4) Any form of enterprise which provides such other goods or services determined by the Commission to be so utilized in or incidental to gaming or casino activity as to require licensing in order to contribute to the integrity of the gaming industry in the Commonwealth.

(b) The Commission may require registration~~licensure~~ as a casino non-gaming vendor~~vvendor~~ of any other person or entity which provides, or is likely to provide, any ~~gaming or nongaming~~non-gaming services of any kind to the casino licensee or its affiliated companies in an amount greater than two hundred fifty thousand dollars ($250,000) per ~~fiscal or calendar year~~trailing twelve months.

(c) The casino licensee shall not buy, purchase, rent, lease, or obtain any good or service from any person or entity who must be registered as a casino non-gaming vendor~~vendor~~ with the Commission~~licensed~~ pursuant to this part if such person is not in possession of a current, valid registration~~license~~. The casino gaming licensee shall immediately terminate its association and business dealings with a person ~~licensed~~

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~~pursuant to this Part~~ upon notification from the Commission that the person's ~~license of such sservice provider~~gaming vendor license or casino non-gaming vendor~~vendor~~ registration~~e~~ has been suspended or revoked.

(d) The casino gaming licensee shall ensure that all contracts entered into with any vendor include a clause that requires the vendor to apply for a casino ~~service provider~~gaming vendor license or casino non-gaming vendor~~vendor~~ registration~~license~~ upon demand of the Commission, and a clause cancelling and voiding the contract if the provider either does not seek, or seeks but does not receive, a casino ~~service provider~~gaming vendor license or casino non-gaming vendor~~vendor~~ registration ~~license~~ if demanded by the Commission.

(e) Registration as a casino non-gaming vendor~~vendor~~ pursuant to subsection (b) is not required for the following persons provided they engage solely in the following transactions, unless otherwise required by the Executive Director~~Casino vendor licenses pursuant to subsection (b) are not required for the following persons provided they engage solely in the following transactions~~:

(1) Landlords renting to the casino licensee or its affiliated companies;
(2) Landowners selling real estate to the casino licensee or its affiliated companies;
(3) Financial companies providing banking services to the casino licensee or its affiliated companies;
(4) Airlines and Travel Agencies selling airfare to the casino licensee or its affiliated companies;
(5) Insurance companies selling insurance policies to the casino licensee or its affiliated companies:
(6) Hotels renting rooms to the casino licensee or its affiliated companies;
(7) Agencies or political subdivisions of the Commonwealth government;
(8) Regulated public utilities;
(9) Attorneys providing legal services;
(10) Accountants providing accountancy services;
(11) Insurance companies underwriting risk or selling policies of insurance;
(12) Shipping companies providing transportation of goods;
(13) Telecommunication companies providing communication service;
(14) Charitable donations to recognized non-profit organizations;
(15) Approved educational/training institutions;.
(16) Recipients of the Community Benefit Fund as described in the Casino License Agreement.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 39 Com. Reg. 39761 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39169 (Jan. 30, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1310 Standards for Qualifications.

(a) The general rules and regulations relating to standards for qualification set forth in Part 900 and the regulations are incorporated herein.

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(b) Each applicant required to be licensed as a casino licensee, casino ~~service provider~~gaming vendor, casino employee, casino key employee, or registered as a casino ~~vendor~~ non-gaming vendor in accordance with these regulations including gaming schools, must, prior to the issuance of any casino ~~service provider~~gaming vendor license or other license issued by the Commission, produce such information, documentation, and assurances to establish by clear and convincing evidence:
(1) The financial stability, integrity, and responsibility of the applicant;
(2) The applicant's good character, honesty, and integrity;
(3) That the applicant, either himself or through his employees, has sufficient business ability and experience to establish, operate, and maintain his enterprise with reasonable prospects for successful operation;
(4) That all owners, management and supervisory personnel, principal employees and sales representatives qualify under the standards established for qualification of a casino key employee;
(5) The integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidence of indebtedness, either in effect or proposed, which bears any relationship to the enterprise; and
(6) The integrity of all officers, directors, and trustees of the applicant.

(c) Each applicant required to be licensed as a casino service provider or registered as a casino vendor in accordance with these Regulation shall, prior to the issuance of any casino service provider license or casino vendor registration ~~or vendor license~~, produce such information and documentation, including without limitation as to the generality of the foregoing its financial books and records, assurances to establish by clear and convincing evidence its good character, honesty, and integrity.

(d) Any enterprise directed to file an application for a casino service ~~provider or casino vendor license~~ provider license or casino vendor registration pursuant to these regulations may request permission from the Commission to submit a modified form of such application. The Commission, in its discretion, may permit such modification if the enterprise can demonstrate to the Commission's satisfaction that securities issued are listed, or are approved for listing upon notice of issuance, on the New York Stock Exchange the NASDAQ, or the American Stock Exchange or any other major foreign stock exchange.

(e) Any modifications of a casino service ~~provider or casino vendor license~~ provider license or casino vendor registration application permitted pursuant to this section may be in any form deemed appropriate by the Commission except that the application for modification must include the following:
(1) The appropriate Personal History Disclosure Forms for all those individuals required to so file by the Commission;
(2) Copies of all filings required by the United States Securities and Exchange Commission including all proxy statements and quarterly reports issued by the applicant during the two immediately preceding fiscal years or reports filed pursuant to the requirements of another regulatory body dealing with securities;

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(3) Properly executed Consents to Inspections, Waivers of Liability for Disclosures of Information and Consents to Examination of Accounts and Records in forms as promulgated by the Commission;
(4) Payment of the fee required by § 175-10.1-1225(d); and
(5) Any other information or documentation required at any time by the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1315 Disqualification Criteria.

A casino service provider license, a provisional casino service provider license~~, a provisional casino vendor license~~,, or a casino vendor registration ~~license~~ must be denied to any applicant for a casino service provider license or casino vendor registration ~~license~~, be they provisional or otherwise, who has failed to prove by clear and convincing evidence that he or any of the persons who must be qualified under § 175-10.1-905(a) possesses the qualifications and requirements set forth in§ 175-10.1-920 and § 175-10.1-925 and any other section of these Regulations.

Modified, 1 CMC § 3806(f)–(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1320 Application; Investigation; Supplementary Information.

(a) Each applicant must apply by completing an application package promulgated by the Commission and tendering payment of the amount listed in § 175-10.1-1225.

(b) The Commission may inquire or investigate an applicant, licensee, registrant, or any person involved with an applicant, ~~or~~ licensee, or registrant as it deems appropriate either at the time of the initial application and licensure or registration or at any time thereafter. It is the continuing duty of all applicants and licensees to provide full cooperation to the Commission in the conduct of such inquiry or investigation and to provide any supplementary information requested by the Commission.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1325 Renewal of Licenses and Registrations.

(a) An application for renewal of a license or registrations shall be filed annually no later than thirty days prior to the expiration of its license or registration. The application for renewal of a license or registration must be accompanied by the promulgated fee and needs to contain only that information which represents or reflects changes, deletions, additions, or modifications to the information previously filed with the Commission.

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(b) A change in any item that was a condition of the original license, ~~or~~registration, or ~~of a license~~ renewal must be approved by the Commission. A change in ownership shall invalidate any approval previously given by the Commission. The proposed new owner is required to submit an application for licensure or registration and evidence that he is qualified for licensure or registration.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1330 Record Keeping.

(a) All casino service provider licensees or casino vendor registrants ~~licensees~~ must maintain adequate records of business operations which shall be made available to the Commission upon request; the records must be maintained in a place secure from theft, loss, or destruction. Adequate records include:
(1) All correspondence with the Commission and other governmental agencies on the local, Commonwealth, and national level;
(2) All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino or related facility;
(3) All copies of promotional material and advertisement;
(4) All personnel files of each employees or agent of the licensee, including sales representatives; and
(5) All financial records of all transactions of the enterprise including, but not limited to those concerning the realty, construction, maintenance, or business in any way related to a proposed or existing casino or related facility.

(b) Adequate records as listed in subsection (a) must be held and remain available for inspection for at least seven years.

Modified, 1 CMC § 3806(d)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1360 Cause for Suspension, Failure to Renew, or Revocation of a License or Registration.

Any of the following is cause for suspension, refusal to renew, or revocation of a casino service provider license or casino vendor registration~~license~~; refusal to renew or a revocation may be issued for sufficient cause, so as those listed but not limited to:

(a) Violation of any provision of the Act or these regulations;

(b) Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;

(c) Failure to comply with all applicable Commonwealth, federal, state, and local

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statutes, ordinances, and regulations;

(d) A material departure from any representation made in the application for licensure;

(e) Conduct by the licensee which involves issuance or acceptance of political favors, kickbacks, undue pressure, manipulation or inducement of a public official for political, regulatory, or financial gain;

(f) Any other action or inaction by the licensee which causes the Commission to question the licensee's integrity, honesty, or which, in the Commission's sole judgment tends to discredit the Commonwealth or the Commonwealth's gaming industry.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1365 Fees.

(a) The fees for a service provider license are listed in Part 1200.

(b) The fees for a provisional service provider license are listed in Part 1200.

(c) The casino regulatory fee is listed in part 1200.

(d) The fees for a casino vendor registration~~license~~ are listed in Part 1200

~~(e) The fees for a provisional casino vendor license are listed in Part 1200.~~

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1375 Casino Service Provider License.

No casino service ~~provider or casino vendor license~~ provider license will be issued unless the individual qualifications of each of the following persons have first been established in accordance with all provisions, including those cited, in the Act and of the regulations:

(a) The enterprise;

(b) If the enterprise is, or if it is to become, a subsidiary, each holding company and each intermediary company which the Commission deems necessary in order to further the purposes of the Act;

(c) Each owner of the enterprise who directly or indirectly holds any beneficial

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interest or ownership in excess of 20% of the enterprise;

(d) Each owner of a holding company or intermediary company who the Commission determines is necessary in order to further the purposes of the Act;

(e) Each director of the enterprise except a director who, in the opinion of the Commission, is significantly not involved in or connected with the management or ownership of the enterprise shall not be required to qualify;

(f) Each officer of the enterprise who is significantly involved in or has authority over the conduct of business directly related to casino or gaming activity and each officer whom the Commission may consider appropriate for qualification in order to ensure the good character, honesty, and integrity of the enterprise;

(g) Each officer of a holding company or intermediary company whom the Commission may consider appropriate for qualification in order to ensure the good character, honesty, and integrity of the enterprise;

(h) The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;

(i) Each employee who will act as a sales representative or otherwise engage in the solicitation of business from casino licensees; and

(j) Any other person whom the Commission may consider appropriate for approval or qualification.

Modified, 1 CMC § 3806(a), (e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1385 Provisional Casino Service Provider License.

(a) The Executive Director and Chairman may, in their~~his~~ sole and absolute discretion, issue a provisional service provider license to any person who applies for a license as a casino service provider required by § 175-10.1-1305, provided such applicant also applies for a provisional license pursuant to this section.

(b) The provisional casino service provider license shall be valid for such time as the applicant's casino service industry license is pending with the Commission for investigation, consideration, determination of suitability, and any other period before the Commission (1) grants the license; or (2) rejects the application.

(c) If the applicant withdraws his application for a casino service provider license required by § 175-10.1-1305, the provisional license issued by the Executive Director

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pursuant to § 175-10.1-1385(a) shall immediately expire.

(d) In determining whether to issue a provisional service provider license pursuant to § 175-10.1-1385(a), the Executive Director and Chairman must consider whether issuing such provisional license will bring disrepute to the Commonwealth or the gaming industry.

~~(e) The Executive Director shall not issue a provisional service provider license to any provider who is not currently licensed as a casino service provider authorized to transact business with casinos in the State of Nevada or any other U.S. jurisdiction. The Executive Director shall only issue a provisional service provider license to a provider who is licensed as a casino service provider authorized to transact business with casinos in Nevada or any other U.S. jurisdiction only for the limited purpose of providing the exact devices and services the provider is licensed to provide to casinos in the State of Nevada or any other U.S. jurisdiction. No holder of a provisional service provider license may provide any device, machine, service or thing it is not presently licensed to provide to unrestricted licensees in the State of Nevada or any other U.S. jurisdiction.~~

(e~~f~~) The Executive Director and Chairman may use the information the applicant supplied with his application for a casino service industry license required by § 175-10.1-1305 in considering whether to issue the provisional license, and may require any additional information he deems necessary for consideration of the issuance of the provisional license.

(f~~g~~) The application fee for the provisional license is one half of the amount charged by the Commission for a casino service industry license required by § 175-10.1-1305. This amount must be paid at the time of filing of the application for the license, is a separate fee and will not be credited to any other amount owed by the applicant to the Commission or the Commonwealth.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1390 Casino Vendor Registration~~License~~.

(a) Any person or entity who is not a holder of a casino service provider license issued pursuant to § 175-10.1-1305 who transacts more than two hundred fifty thousand dollars ($250,000) per ~~calendar or fiscal year~~trailing twelve (12) months with the casino licensee (including any and all of its affiliate companies) must register as a casino vendor ~~obtain from t~~with the Commission ~~a casino vendor license or a provisional casino vendor license~~.

(b) The casino licensee (including any and all of its affiliate companies) shall not transact more than two hundred fifty thousand dollars ($250,000) per ~~calendar or fiscal year~~trailing twelve (12) months with any person, entity, or affiliated group of persons or entities if said person, entity or affiliated group of persons or entities has ~~does~~ not

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registered as ~~possess a valid casino vendor license~~ a casino vendor with the ~~or provisional casino vendor license issued~~ Commission pursuant to these regulations.

(c) Registration as a c~~C~~asino v~~v~~endor ~~licenses~~ pursuant to subsection (a) is ~~are~~ not required for the following persons provided they engage solely in the following transactions, unless otherwise required by the Executive Director:
(1) Landlords renting to the casino licensee or its affiliated companies;
(2) Landowners selling real estate to the casino licensee or its affiliated companies;
(3) Financial companies providing banking services to the casino licensee or its affiliated companies;
(4) Airlines selling airfare to the casino licensee or its affiliated companies;
(5) Insurance companies selling insurance policies to the casino licensee or its affiliated companies;
(6) Hotels renting rooms to the casino licensee or its affiliated companies;
(7) Agencies or political subdivisions of the Commonwealth government;
(8) Regulated public utilities;
(9) Attorneys providing legal services;
(10) Accountants providing accountancy services;
(11) Insurance companies underwriting risk or selling policies of insurance;
(12) Shipping companies providing transportation of goods;
(13) Telecommunication companies providing communication service;
(14) Charitable donations to recognized non-profit organizations;
(15) Approved educational/training institutions;
(16) Recipients of the Community Benefit Fund as described in the Casino License Agreement.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 39 Com. Reg. 39761 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39169 (Jan. 30, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

~~**§ 175-10.1-1395 Provisional Casino Vendor License.**~~

~~(a) The Executive Director may, in his sole and absolute discretion, issue a provisional service provider license to any person who applies for a license as a casino vendor required by § 175-10.1-1390, provided such applicant also applies for a provisional license pursuant to this section.~~

~~(b) The provisional casino service provider license shall be valid for such time as the applicant's casino vendor license is pending with the Commission for investigation, consideration, determination of suitability and any other period before the Commission (1) grants the license; or (2) rejects the application.~~

~~(c) If the applicant withdraws his application for a casino service provider license required by § 175-10.1-1390, the provisional license issued by the Executive Director pursuant to § 175-10.1-1395(a) shall immediately expire.~~

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~~(d) In determining whether to issue a provisional service provider license pursuant to § 175-10.1-1395(a), the Executive Director must consider whether issuing such vendor license will bring disrepute to the Commonwealth or the gaming industry.~~

~~(e) The Executive Director shall not issue a provisional vendor license to any provider who must register as a casino service provider or casino service industry license required by § 175-10.1-1305.~~

~~(f) The Executive Director may use the information the applicant supplied with his application for a casino vendor license required by § 175-10.1-1390 in considering whether to issue the provisional license, and may require any additional information he deems necessary for consideration of the issuance of the provisional license.~~

~~(g) The application fee for the provisional license is one half of the amount charged by the Commission for a casino vendor license. This amount must be paid at the time of filing of the application for the provisional license, is a separate fee and will not be credited to any other amount owed by the applicant to the Commission or the Commonwealth.~~

~~Modified, 1 CMC § 3806(f).~~

~~History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).~~

§ 175-10.1-1525 Revocation of License or Registration; Hearing.

(a) The Commission will not revoke or suspend any license, registration, or finding of qualification or suitability unless it has first afforded the licensee, registrant, or holder opportunity for a hearing.

(b) Notwithstanding subsection (a), the Executive Director <u>and Chairman</u> may suspend a temporary casino employee license, ~~provisional casino vendor license,~~ provisional casino service provider license, provisional junket operator license, or temporary key employee license pursuant to § 175-10.1-1915 without a hearing but notice must be provided to the employee, key employee, or provisional licensee, and the casino licensee of such suspension and the applicant shall be given an opportunity to cure the deficiency promptly.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1530 Emergency Orders; Hearings; Complaints.

Within five (5) days after the issuance of an emergency order pursuant to ~~these~~

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~~regulation~~these regulations, the Commission will cause a complaint to be filed and served upon the person involved in accordance with the provisions of this Part. Thereafter, the person against whom the emergency order has been issued and served is entitled to a hearing before the Commission. A person may request a hearing in accordance with the provisions of § 175-10.1-1510.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1535 Commencement of Actions.

(a) An enforcement action against a Person, as that word is defined by §175-10.1-2510 (b), must be filed with the Commission within three (3) years of the accrual of the cause of action. The cause of action accrues at the time the claim arises, or when the Executive Director knows, or by the exercise of reasonable diligence should know, that he has a cause of action, whichever date is later.

(b) In order to facilitate possible settlement, the parties may, by stipulation, toll the limitation listed in (a) above, or any other applicable limitation.

§ 175-10.1-1610 Petitions for Declaratory Rulings.

(a) Any person may petition the Commission for a declaratory ruling.

(b) A petition for a declaratory ruling shall be filed with the Secretary, together with a nonrefundable filing fee in to the Commission in the amount of two hundred dollars ($200) unless the petitioner is the Commission or a governmental agency or political subdivision of the Commonwealth, in which case there shall be no filing fee. A copy of the petition must be served by the petitioner upon the Attorney General within three working days of the date of filing.

(c) The Secretary shall maintain and keep current a list of persons who have requested notice of petitions for declaratory rulings and shall transmit a copy of such list to a petitioner as soon as practicable after the filing of a petition for declaratory ruling. Persons shall pay a fee of one hundred dollars ($100) per fiscal year for inclusion on the list, but such fee is waived for governmental agencies and political subdivisions of the Commonwealth. The petitioner shall serve a copy of the petition by personal delivery or first-class mail upon each person on such list no later than seven days after receiving such list and shall provide an affidavit of service to the secretary. Each person receiving a copy of the petition for declaratory ruling may, within seven days after receipt, request the Secretary to provide him notice of the time set for the hearing on the petition for declaratory ruling.

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(d) The petition for a declaratory ruling must contain:
(1) The name, business address and telephone number of the petitioner;
(2) A statement of the nature of the interest of the petitioner in obtaining the declaratory ruling;
(3) A statement identifying the specific statute, regulation or commission decision or order in question;
(4) A clear and concise statement of the interpretation or position of the petitioner relative to the statute, regulation, or commission decision or order in question;
(5) A description of any contrary interpretation, position, or practice that gives rise to the petition;
(6) A statement of the facts and law that support the interpretation of the petitioner;
(7) A statement of any contrary legal authority including authority that is binding and merely persuasive;
(8) A statement showing why the subject matter is appropriate for Commission action in the form of a declaratory ruling and why the objective of the petitioner cannot reasonably be achieved by other administrative remedy;
(9) A statement identifying all persons or groups who the petitioner believes will be affected by the declaratory ruling, including the gaming industry as a whole, and the manner in which the petitioner believes each person will be affected;
(10) The signature of the petitioner or his legal representative; and
(11) An affidavit of service upon the Attorney General.

(e) An interested person may not file a petition for declaratory ruling involving questions or matters that are issues in a contested case in which the interested person is a party.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1825 Investigation of Conduct of Licensees and Registrants, Generally.

Any gaming license, including but not limited to: a casino license, a casino service provider license, a casino vendor registration~~license~~, a casino employee license, and a key casino employee license is a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder. The burden of proving his qualifications to hold any license rests at all times on the licensee. The Commission is charged by law with the duty of observing the conduct of all licensees to the end that licenses shall not be held by unqualified or disqualified persons or unsuitable persons or persons whose operations are conducted in an unsuitable manner.

Modified, 1 CMC § 3806(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

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§ 175-10.1-1835 Access to Premises and Production of Records.

(a) No applicant for any gaming license, including but not limited to: a casino gaming license, a service provider license, a casino employee license, and a key casino employee license, shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by a Commission member or any agent of the Commission or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by the Commission, or any Commission agent to produce such information.

(b) No licensee or enrolled person shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by a Commission member or any agent of the Commission or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by the Commission, or any Commission agent to produce such information.

(c) Each licensed manufacturer, licensed distributor or seller, licensed casino, and licensed casino service provider, shall immediately make available for inspection by any Commission member or agent all papers, books, and records produced by any gaming business and all portions of the premises where gaming is conducted or where gambling devices or equipment are manufactured, sold, or distributed. Any Commission member or agent shall be given immediate access to any portion of the premises of any casino licensee or casino service provider for the purpose of inspecting or examining any records or documents required to be kept by such licensee under the regulations and any gaming device or equipment or the conduct of any gaming activity.

(d) Neither the casino licensee nor any applicant for or holder of any license, permit or registration issued by the Commission shall, in any interaction or dealing with the Commission or its staff:
(1) falsify, conceal, or cover up by any trick, scheme, or device a material fact;
(2) make any materially false, fictitious, or fraudulent statement or representation;
(3) make any untrue statement or representation; or
(4) make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.
A violation of this section is a major offense which subjects the licensee, applicant or holder to discipline.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-1865 Minimum Working Capital Requirements.

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(a) The Commission, by Order, may adopt or revise a working capital formula that specifies the minimum working capital requirements applicable to the casino licensee, along with instructions for computing available working capital. The formula adopted by the Commission may require the licensee to maintain a number of months of cash on hand, utilize a debt-to service ratio, or utilize any other ratio the Commission deems fit.

(b) The casino licensee may propose the repeal or revision of any existing working capital formula by submitting a request to the Commission, which shall consider the request at its discretion.

(c) The casino licensee shall maintain in accordance with the working capital formula adopted by the Commission pursuant to the requirements of this section, cash or cash equivalents in an amount sufficient to reasonably protect the licensee's employee's, vendors and creditors against defaults of debts owed by the licensee as they become due. If at any time the licensee's available cash or cash equivalents should be less than the amount required by this section, the licensee or operator shall immediately notify the Commission of this deficiency and shall also detail the means by which the licensee shall comply with the minimum working capital requirements. Failure to maintain the minimum working capital required by this section, or failure to notify the Commission as required by this section, is an unsuitable method of operation.

(d) Records reflecting accurate, monthly computations of working capital requirements and actual working capital available shall be maintained by the casino licensee. The Executive Director, in his sole discretion, may require more frequent computations, and require additional recordkeeping not specified in the formula.

(e) Neither this section nor a formula adopted pursuant to it, alters, amends, supersedes or removes any other condition of any licensee or approval imposed on any licensee by law or regulation, the casino license agreement, or order of any agency.

(f) The Chairman or Executive Director, for good cause shown by the licensee, may waive one or more of the requirements or provisions of the working capital requirements.

(g) The Commission, Chairman or Executive Director, is hereby granted the authority to revoke any waiver granted pursuant to this section for any cause deemed reasonable. Notice of the revocation of a waiver shall be deemed delivered and effective when personally served upon the licensee. If a notice revoking or suspending the waiver of a working capital requirement is issued, the affected licensee may request that the decision of the Chairman or Executive Director be reviewed by the Commission. Such revocation or suspension shall be stayed until the matter is decided by the Commission.

§ 175-10.1-1910 Temporary Licensure; Provisional Licensure.

(a) A person is deemed temporarily licensed as a casino employee upon submission by the casino licensee of an application for licensure to the Commission for the applicant,

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unless otherwise determined by the Commission or the Executive Director. The person to be employed is not the applicant and is merely a beneficiary of the application process. The casino licensee may withdraw the application at any time without notice to or approval from the proposed employee beneficiary.

(b) The application for licensure is an application package, in electronic or paper form, containing all the components of a complete application for registration for a casino employee or a casino key employee or renewal of licensure of the same consisting of, at a minimum:
(1) The online or paper form for application promulgated by the Executive Director for licensure or renewal of licensure as a casino employee or casino key employee in electronic or paper form;
(2) Two sets of fingerprints of the applicant or, if applicable, proof that the applicant's fingerprints were previously submitted electronically or by another means to the Commission;
(3) The applicable fee for licensure or renewal; and
(4) The statement promulgated in § 175-10.1-925.

(c) Temporary licensure as a casino employee is valid for a period of ~~one hundred~~ninety ~~eighty~~ calendar days after an application for licensure is received by the Commission, unless objected to by the Executive Director, or otherwise suspended or revoked. The Executive Director may extend the temporary licensure period for an additional ninety calendar days.

(d) The Executive Director may promulgate different forms for casino employees and casino key employee applications.

(e) The Executive Director may, in his sole and absolute discretion, issue a provisional casino key employee license to any person who applies for a license as a casino key employee by § 175-10.1-1905, provided such applicant applies for a provisional license pursuant to this section.

(f) The provisional casino key employee license shall be valid for such time as the applicant's casino key employee license application is pending with the Commission for investigation, consideration, determination of suitability and any other period before the Commission (1) grants the license; or (2) rejects the application.

(g) If the applicant withdraws his application for a casino key employee license required by § 175-10.1-1905, the provisional license issued by the Executive Director pursuant to § 175-10.1-1910(e) shall immediately expire.

(h) In determining whether to issue a provisional casino key employee license pursuant to § 175-10.1-1910(e), the Executive Director must consider whether issuing such license will bring disrepute to the Commonwealth or the gaming industry.

(i) The Executive Director shall not issue a provisional key employee license to any

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person who is not currently licensed as a casino key employee in the CNMI or any other US jurisdiction, but the Executive Director may issue a provisional key employee license to any person who was licensed as a casino key employee any other US jurisdiction within the last five years, but who surrendered their licensure while in good standing upon termination of their employment in the jurisdiction.

(j) The Executive Director may use the information the applicant supplied with his application for a casino key employee license required by § 175-10.1-1905 in considering whether to issue the provisional license, and may require any additional information he deems necessary for consideration of the issuance of the provisional license.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Part 2000- CHIPS AND TOKENS

§ 175-10.1-2001 Approval of Chips and Tokens; Applications and Procedures.

(a) A licensee shall not issue any chips or tokens for use in its gaming establishment, or redeem any such chips or tokens, unless the chips or tokens have been approved in writing by the Commission. A licensee shall not issue any chips or tokens for use in its gaming establishment, or redeem any such chips or tokens, that are modifications of chips or tokens previously approved by the Commission, unless the modifications have been approved in writing.

(b) Applications for approval of chips, tokens, and modifications to previously-approved chips or tokens must be made, processed, and determined in such manner and using such forms as the Commission may prescribe. Only casino licensees or the manufacturer authorized by these licensees to produce the chips or tokens, may apply for such approval. Each application must include, in addition to such other items or information as the Commission may require:
(1) An exact drawing, in color or in black-and-white, of each side and the edge of the proposed chip or token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed chip or token in each dimension;
(2) Written specifications for the proposed chips or tokens;
(3) The name and address of the manufacturer;
(4) The licensee's intended use for the proposed chips or tokens; and
(5) A verification upon oath or notarized affirmation, executed by the chief operating officer of the chip or token manufacturer, or a person with equivalent responsibilities, that it has a written system of internal control, approved by the Commission, which describes in detail the current administrative, accounting, and security procedures which are utilized in the manufacture, storage, and shipment of the chips, tokens, and related material. The written system must include at a minimum, a detailed, narrative

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description of the procedures, and controls implemented to ensure the integrity and security of the manufacturing process, from design through shipment, including but not limited to those procedures and controls designed specifically to:

(i) Provide for the secure storage or destruction of all pre-production prototypes, samples, production rejects and other ~~nonsellable~~nonsalable product.

(ii) Provide security over the finished art work, hubs, plates, dies, molds, stamps, and other related items which are used in the manufacturing process.

(iii) Prevent the unauthorized removal of product from the production facility through the utilization of security devices such as metal detectors, and surveillance cameras.

(iv) Restrict access to raw materials, work-in-process, and finished goods inventories to authorized personnel.

(v) Establish procedures for documenting approval of production runs.

(vi) Establish and maintain a perpetual inventory system which adequately documents the flow of materials through the manufacturing process.

(vii) Establish procedures which reconcile the raw material used to the finished product on a job-by-job basis. Significant variances are to be documented, investigated by management personnel, and immediately reported to the Commission and to the licensee who authorized the manufacturer to produce the chips or tokens.

(viii) Provide for quarterly physical inventory counts to be performed by individual(s) independent of the manufacturing process which are reconciled to the perpetual inventory records. Significant variances are to be documented, investigated by management personnel, and immediately reported to the Division of Audit and/or Division of Compliance~~divisions of Audit and Compliance~~.

(ix) Establish a framework of procedures which provide for the security and accountability of products and materials sent to or received from subcontractors or satellite production facilities.

(x) Document controls over the shipment of finished product, and

(xi) Provide such other or additional information as the Commission may require.

(c) The Commission may approve variations from the specific requirements of this regulation if in the opinion of the Commission the alternative controls and procedures meet the objectives of this regulation.

(d) If, after receiving and reviewing the items and information described by this regulation, the Commission is satisfied that the proposed chips, tokens and related information conform to the requirements of this regulation, the Commission shall notify the licensee or the manufacturer authorized by the licensee to produce the chips or tokens in writing and shall request, and the licensee or the manufacturer shall provide a sample of the proposed chips or tokens in final, manufactured form. If the Commission is satisfied that the sample conforms with the requirements of this regulation and with the information submitted with the licensee's application, the Commission shall approve the proposed chips or tokens and notify the licensee in writing. As a condition of approval of chips or tokens issued for use at the licensee's race book, sports pool, or specific table or counter game, the Commission may prohibit the licensee from using the

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chips or tokens other than at the book, pool, or specific game. The Commission may retain the sample chips and tokens submitted pursuant to this Regulation.

(e) At the time of approval of a system of internal control, the Commission may require the manufacturer to provide, and thereafter maintain with the Commission, a revolving fund in an amount determined by the Commission, which amount shall not exceed ten thousand dollars ($10,000). The Commission and its staff may use the revolving fund at any time without notice, for the purpose of implementing the provisions of this regulation.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 39 Com. Reg. 39761 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39169 (Jan. 30, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2020 Use of Chips and Tokens.

(a) Chips and tokens are solely representatives of value which evidence a debt owed to their custodian by the casino gaming licensee and are not the property of anyone other than the licensee.

(b) The casino gaming licensee uses chips or tokens at its gaming establishment shall:
(1) Comply with all applicable statutes, regulations, and policies of the Commonwealth and of the United States pertaining to chips or tokens;
(2) Issue chips and tokens only to patrons of its gaming establishment and only at their request;
(3) Promptly redeem its own chips and tokens from its patrons by cash or check drawn on an account of the licensee;
(4) Post conspicuous signs at its establishment notifying patrons that federal law prohibits the use of the licensee's tokens, that Commonwealth law prohibits the use of the licensee's chips, outside the establishment for any monetary purpose whatever, and that the chips and tokens issued by the licensee are the property of the licensee, only; and
(5) Take reasonable steps, including examining chips and tokens and segregating those issued by other licensees to prevent the issuance to its patrons of chips and tokens issued by any other casino.

(c) The casino gaming licensee shall not accept chips or tokens as payment for any goods or services offered at the licensee's gaming establishment with the exception of the specific use for which the chips or tokens were issued, and shall not give chips or tokens as change in any other transaction. Notwithstanding the foregoing, value chips of five hundred dollars ($500) or less may be accepted as payment for food or beverage in the gaming areas of the operations of the casino operator licensee's operations in the Commonwealth.

(d) The casino gaming licensee shall not redeem its chips or tokens if presented by a person who the licensee knows or reasonably should know is not a patron of its gaming

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establishment, except that a licensee shall promptly redeem its chips and tokens if presented by an employee or key employee of the licensee who presents the chips and tokens in the normal course of employment.

(e) The casino gaming licensee shall redeem its chips and tokens if presented by an agent of the Commission in the performance of his official duties or on behalf of another governmental agency.

(f) The casino gaming licensee shall not knowingly issue, use, permit the use of, or redeem chips or tokens issued by any other licensee.

(g) Chips whose use is restricted to uses other than at table games or other than at specified table games may be redeemed by the issuing licensee at table games or non-specified table games if the chips are presented by a patron, and the licensee redeems the chips with chips issued for use at the game, places the redeemed chips in the table's drop box, and separates and properly accounts for the redeemed chips during the count performed pursuant to the licensee's system of internal control required by Part 500.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2305 Persons Ineligible for Employment.

(a) Members of the 18th CNMI Legislature and their immediate family shall not be paid or receive any financial consideration nor shall they be retained as independent contractors or employed directly or indirectly by any casino licensed under this chapter in its current form or as amended, or by said casino's affiliates or agents, for a period of five years beginning from the date of the issuance of said casino's license.

(b) The casino licensed under the Act must certify to the Commission yearly in a document signed by the Casino's Cehief Eexecutive Officer or Oeperating Oefficer and Cehief Ffinancial Oefficer that, to their knowledge after a diligent investigation, no financial consideration or payment has been made to any prohibited person in violation of this regulation.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2310 Commission Ineligible for Employment.

(a) No member, employee, or agent of the Commission shall knowingly be an employee of or have any business or financial association with or interest in any casino or casino service provider licensee or casino vendor registrant ~~licensee~~ under this title or any business reasonably related to such license.

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(b) Cool off period. No member or employee of the Commission, except clerical employees of the Commission, shall work for or be a consultant to the casino licensee or any poker, pachinko, or electronic gaming facility in the Commonwealth, which is regulated by the Commission for a period of one year after separation from the Commission.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2325 Internship Programs.

(a) The casino licensee may enter into approved agreements with approved entities to provide internship training opportunities to qualified interns.

(b) The casino licensee may not enter into any internship agreement that is not an approved agreement and may not enter into any internship agreement with an entity that is not an approved entity.

(c) The casino licensee may provide internship opportunities only to qualified interns. The casino licensee may not provide internship opportunities to interns who are not qualified.

(d) Participation in an approved agreement is a privilege, is not a right of any kind, and is subject to the continuing approval of the Executive Director, who may withdraw or rescind his approval at any time for any reason, with or without prior notice to the casino licensee, the approved entity or the intern.

(e) The Executive Director may charge a fee for applying and/or participating in an approved internship program. Such fees shall be paid by the proposed intern or the entity and shall not exceed fifty dollars ($50) for fingerprinting and licensure. The proposed intern must provide, at the intern's expense, police clearances as may be required by the Executive Director sufficient to demonstrate good character of the applicant.

(f) For the purpose of this section, the following terms have the following meanings:
(1) "Approved agreement" or "approved agreements" means an agreement approved by the Executive Director, which will specifically determine the time, place, manner, scope, duration and location of permissible internship activity;
(2) "Approved entity" or "approved entities" means the Northern Marians College, the Workforce Investment Agency and any other entity approved by the Executive Director;
(3) "Qualified intern" or "qualified interns" means a person of at least eighteen years of age deemed suitable by the Executive Director for gaming positions and a person under eighteen years of age deemed suitable by the Executive Director in non-gaming

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positions. In making this determination, the Executive Director shall use the suitability standards in these regulations for casino employment.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2405 Closing Due to Natural Disasters.

(a) (1) Subsection 175-10.1-2401(b) shall not apply if the Commission authorizes closure of any licensed gaming establishment that temporarily ceases the operation of all licensed games because of natural disaster, fire or other physical destruction of the licensed gaming establishment. In such circumstances, the licensee shall notify the Commission of the circumstances requiring closure of the licensed games pending rebuilding or repair of the premises; the anticipated duration of the closure; and the intent of the licensee to commence operation as soon as rebuilding or repairs have been completed. Upon receipt of such notice, the Commission, if satisfied that the premises are in fact unusable for continuing gaming, may authorize closure for such time as is necessary provided that any and all fees continue to be paid when they become due.

(2) Subsection 175-10.1-2401(b) shall not apply if the Commission authorizes closure of any licensed gaming establishment that temporarily ceases the operation of all licensed games because of pandemic or other continuing event which, in the Commission's judgment, requires closure. In such circumstances, the licensee shall notify the Commission of the circumstances requiring closure of the licensed games pending resolution of the triggering event; the anticipated duration of the closure; and the intent of the licensee to commence operation as soon as conditions have sufficiently improved to allow for opening of the licensed establishment. Upon receipt of such notice, the Commission, if satisfied that the situation is in fact not conducive for continuing gaming, may authorize closure for such time as is necessary provided that any and all fees continue to be paid when they become due.

(b) Any licensee granted temporary closure by the Commission under subsection (a) is a continuing gaming licensee subject to the provisions of the Act and regulations adopted thereunder, and shall also be subject to such conditions, by way of placement of a bond, reporting, or otherwise, as may be deemed necessary by the Commission.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2510 Definitions.

As used in this Part, unless the context plainly requires a different definition:

(a) "Offense" means a violation of any: federal, state, or Commonwealth law; federal, state or Commonwealth Regulation; any order issued by the Commission; any Internal

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Control Standard approved by the Commission; any provision of the Casino License Agreement, or any Minimum Internal Control Standard ordered by the Commission.

(b) "Person" means a person or business entity who is or who must be licensed, regulated, or registered by the Commission, who has applied to the Commission for licensure or registration, or who holds or is the beneficiary, or who has held or was the beneficiary, of a license issued by the Commission.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2525 Multiple Offenses from Single Action or Omission.

(a) A single action or omission which violates multiple laws, regulations, orders or the like may be charged as multiple offenses and multiple punishments may be levied for each offense.

(b) By way of example, an action or omission which violates federal law, Commonwealth law, and a Commission regulation is three distinct offenses.

(c) In the case of a continuing violation, each day's continuance is a separate violation.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2540 Mandatory Offense Levels.

(a) Unless the Commission, the Executive Director, or the hearing examiner, as the case may be, determines that substantial aggravating factors exist such that a higher offense level is appropriate, the following are minor offenses: negligently allowing a person under twenty-one to loiter on the gaming floor; failing to affix a required signature to a required report; failing to timely file a report (for fewer than 2 working days~~48 hours~~);

(b) Unless the Commission, the Executive Director, or the hearing examiner, as the case may be, determines that substantial aggravating factors exist such that a higher offense level is appropriate, the following are intermediate offenses: intentionally allowing a person under twenty-one to loiter on the gaming floor; negligently allowing a person under twenty-one to place a wager; failing to timely file a report (for more than 2 working days~~48~~ but fewer than 5 working days~~96 hours~~); failing to make any tax, fee, or penalty payment when due (for fewer than 12 hours);

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(c) The following are major offenses: violating any Order of the Commission; failing to make any tax, fee, or penalty payment when due (for more than 12 hours); each day unpaid being a separate violation); paying a minor a winning wager; intentionally allowing methamphetamine possession or sales on the premises; violating Fin~~IN~~SCEN and money laundering-type laws and regulations.

Modified, 1 CMC § 3806(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2545 Penalties.

(a) Each minor offense may be punished by: no punishment; a written warning; a fine not to exceed ten thousand dollars ($10,000); and/or (in the case of a licensee not the casino operator) suspension of the license for a period not to exceed one month.

(b) Each intermediate offense may be punished by: a fine not to exceed twenty thousand dollars ($20,000) and/or (in the case of a licensee not the casino operator) suspension of the license for a period not to exceed six months.

(c) Each major offense may be punished by: no punishment; a written warning; a fine not to exceed fifty thousand dollars ($50,000); and/or (in the case of a licensee not the casino operator) suspension of the license for any period of time up to and including license revocation.

(d) The casino operator license may be suspended or modified at the discretion of the Commission upon a finding that one or more major offenses have occurred.

(e) The casino operator license may be terminated at the discretion of the Commission upon a finding that major offenses have repeatedly occurred or upon a finding that the Casino License Agreement has been materially breached.

(f) Any time a license is suspended for any period of time, the Commission or Executive Director may impose restrictions and conditions of any type deemed necessary which must be followed by the licensee after the period of suspension has ended.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2560 Executive Director's authority to enter into stipulated agreements.

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(a) The Executive Director may enter into a stipulated agreement with any Person to settle claims of Offenses. Every stipulated agreement must be submitted to the Commission for confirmation or rejection.

(b) The Commission is not to negotiate with the parties. A stipulated agreement presented to the Commission for confirmation or rejection must be confirmed or rejected in its entirety. The Commission may not alter or amend a stipulated agreement unless such agreement specifically allows for modification by the Commission.

§ 175-10.1-2605 Licensure and Registration Required.

(a) All junket operators must be licensed by the Commission.

(b) All junket representatives must be registered with the casino licensee before any junket activity can be conducted at the casino(s) of the casino licensee.

(c) It is an unsuitable method of operation for the casino licensee to permit a junket operator or junket representative to conduct any Junket activity at the casino(s) of the casino licensee, unless the junket operator has been licensed by the Commission and the junket representative has been registered with the casino licensee.

(d) A junket operator must meet with the criteria and standards of Part 900 in applying for a junket operator license. The Commission has absolute discretion to deny, suspend or revoke a junket agent license at any time. A junket operator license shall be valid for two years.

(e) The Commission has authority to grant a provisional junket operator license upon submission by an applicant, to the satisfaction of the Commission, of all required information, fees and forms~~, and a current license issued for the same or substantially the same activities as the junket activity and issued by a gaming regulatory authority from the United States of America, Australia, South Korea, Macao, Singapore, or any other country as approved by the Commission~~. The provisional junket operator license shall be valid for a period not to exceed one year. Any person or entity that holds a provisional junket operator license may apply for a regular junket operator license at any time during the period of provisional licensure.

(f) Mandatory License Requirements. As a condition of every junket operator license,
or provisional junket operator license, the Commission or its authorized representatives may inspect and monitor, at any time and with or without notice, any part of the junket operator, its operations, equipment, records, and related activities and any similar area or activity of the licensed junket operator, within or without the Commonwealth, and that a law enforcement officer may enter any such area as requested by the Commission. The Executive Director may authorize representatives of the Commission.

(g) Disqualification Criteria. A junket operator license or a provisional junket operator license, must be denied to any applicant for a junket operator or provisional

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junket operator license who has failed to prove by clear and convincing evidence that he or any of the persons who must be qualified under § 175-10.1-905(a) possesses the qualifications and requirements set forth in § 175-10.1-920 and § 175-10.1-925 and any other section of these Regulations as if they were applicants for any other type of license.

(h) License Transfer. A regular junket operator license or provisional junket operator license may not be transferred without obtaining prior written approval from the Commission.

(i) Ownership. Greater than Twenty-Five percent (25%) ownership interest changes in the licensed junket operator requires written approval or clearance from the Commission. Failure to obtain a written or clearance from the Commission may result in suspension or revocation of junket operator license.

Modified, 1 CMC § 3806(e)–(g).

History: Amdts Adopted 40 Com. Reg. 40566, 40571 (Feb. 28, 2018); Amdts Proposed 39 Com. Reg. 39773 (July 28, 2017); Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2635 Methods, Procedures, and Forms.

(a) The Commission or the Executive Director shall, by order prescribe methods, procedures, and forms for the delivery and retention of information concerning the conduct of a junket by the casino licensee and persons engaged in junket activity.

(b) The failure to follow any ordered method or procedure or the failure to complete or submit any ordered form is an unsuitable method of operation.

(c) Every junket operator must provide to the Executive Director an exact copy of every tax or other document, form, or return filed with or provided to the Commonwealth's Secretary of Finance, the Department of Finance, or the Division of Revenue and Taxation within three days of such filing or provision, without regard as to whether the document, form or return was filed or provided by the junket operator or on behalf of the operator by an agent or third party.

(d) For every payment of United States or foreign currency received by a junket operator, or any of its agents, officers, directors, members, employees, or affiliates, outside of the United States in relation to a gaming debt owed to the junket operator or a casino gaming-related deposit made to the junket operator, a Currency Payment Report that has been adopted by the Executive Director must be submitted to the Commission within thirty (30) days after the receipt of such payment.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

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§ 175-10.1-2640 Required Fees.

(a) Application for a junket operator license must be submitted to the Commission with a non-proratable, non-refundable license fee of ~~one~~ Five thousand dollars ($~~1~~5,000). The Application for a junket operator license must also be accompanied by a non-proratable, non-refundable investigation fee of six thousand dollars ($6,000).

(b) The regular junket operator license shall be valid for a period of two years unless revoked by the Commission. A non-proratable, non-refundable license fee of ~~one~~ five thousand dollars ($~~1~~5,000) shall be payable to the Commission for each renewal. Each renewal application must also be accompanied by a non-proratable, non-refundable investigation fee of six thousand dollars ($6,000).

(c) The application for a provisional junket operator license must be submitted to the Commission with a non-proratable and non-refundable license fee of ~~one~~ five thousand dollars ($~~1~~5,000). The provisional license is valid for one year.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Part 2900 - SELF-EXCLUSION LIST

§ 175-10.1-2901 Self-Exclusion Policy.

(a) The Executive Director shall provide a procedure whereby a person who acknowledges that he or she has a gambling problem may self-identify and self-exclude himself or herself from the gambling or gaming facilities licensed by the Commission. The procedure shall require self-excluded persons to agree not to enter the facility licensed by the Commission unless the self-excluded person is working and agree to be removed voluntarily from all mailing, marketing and promotional lists and databases.

(b) This policy is to be interpreted broadly and shall apply to any gambling, gaming, or similar facility over which the Commission has jurisdiction.

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2905 Establishment of Self-Exclusion List.

(a) Any person who acknowledges that he or she has a gambling problem may request of the ~~Executive Director~~casino licensee that he or she be excluded voluntarily from the gambling or gaming facilities ~~licensed by the Commission~~of the casino licensee on a permanent basis, except as limited by § 175-10.1-2935. A person shall be placed on the self-exclusion list upon submission of all information and completion and execution of all forms required under § 175-10.1-2915, ~~as enforced by the Executive Director~~.

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(b) Any person placed on the self-exclusion list shall be prohibited for a minimum of one~~five~~ year from entering the gambling or gaming facilities ~~licensed by the Commission~~of the casino licensee. Any gaming regulatory agency in any state or jurisdiction with which the Commission enters into an agreement to share confidentially the information contained in the self-exclusion list may, in its sole discretion, prohibit a person placed on the self-exclusion list from entering any gaming operation within its jurisdiction.

(c) The ~~Executive Director~~casino licensee shall maintain the self-exclusion list in a confidential manner except it must be provided to the Commission upon request.

Modified, 1 CMC § 3806(e)–(f).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2910 Locations to Execute Self-Exclusion Forms.

Any person may seek placement on the self-exclusion list by ~~contacting any agent of the Commission~~visiting the casino licensee ~~who may be present in any gambling or gaming facility licensed by the Commission when gambling or gaming is conducted, appearing at the offices of the Commission in Gualo' Rai, Saipan,~~ during regular business hours, or appearing before a person designated by the ~~Executive Director~~casino licensee as a registration ~~agent~~personnel. Persons who are unable to travel to the ~~Commission office~~casino licensee due to employment, financial~~,~~ or medical reasons may request, in writing, for a reasonable accommodation in a manner or at a site and time designated at the sole discretion of the ~~Executive Director~~casino licensee. Nothing in this section shall require that an accommodation be granted.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2915 Information Required for Placement on the Self-Exclusion List.

(a) The ~~Executive Director~~casino licensee shall determine the information and forms to be required of a person seeking placement on the self-exclusion list. Such information may include, but not be limited to, the following:

(1) Full name, including maiden name and alias information;
(2) Home street address and/or P.O. Box;
(3) Date of birth;
(4) Social security number;
(5) A copy of his or her driver's license;
(6) A physical description;
(7) A current photograph;
(8) A certification that s/he is a problem/disordered gambler and wants to self-ban;

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(9) A certification that s/he agrees that casino has no independent knowledge of the veracity of the claim certified in subsection (a)(8);
(10) A statement that s/he understands that returning to the premises constitutes a material breach of the contract;
(11) An agreement to notify the Casino within 24 hours of the breach;
(12) An admission that his/her presence in the licensed facility when on the self-exclusion list is unlawful and unauthorized;
(13) An admission that any entry into a facility licensed by the Commission while on the self-exclusion list interferes with the peaceful use and enjoyment of the property of another;
(14) An admission that his/her presence in the self-exclusion list conclusively demonstrates that s/he has been lawfully advised to leave the licensed facility, and his/her presence in the facility is a refusal to promptly leave the facility; or desist refuses to promptly do so;* and
(15) An agreement that his/her failure to comply with this voluntary ban may result in trespass, arrest, and prosecution.

(b) Failure to provide any information or requested admission or to execute any forms deemed necessary by the ~~Executive Director~~casino licensee may result in a denial of a request for placement on the self-exclusion list.

(c) Such forms shall include a request to waive the liability of the Commission, its agents, and the Commonwealth for any damages that may arise out of any act or omission related to placement or non-placement on or removal or non-removal from the self-exclusion list.

(d) Such form shall require the casino to agree:
(1) To allow the patron to self-exclude and to remove the patron or have them arrested for trespass in the event the gambler is found on the premises;
(2) That any losses incurred by a self-excluded gambler following a ban will be donated to the Commonwealth if the casino has been provided an updated self-exclusion list which contains the name of the self-excluded gambler.

* So in original.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2925 Distribution and Availability of Confidential Self-Exclusion List.

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(a) The casino licensee shall ~~Executive Director shall~~ maintain and keep current the self-exclusion list. The list shall be updated and distributed in its entirety ~~to the licensed casino facility~~to the Commission on a regular basis.

(b) Upon placement on the self-exclusion list by the casino licensee~~Executive Director~~, the name and identifying information of the self-excluded person shall be distributed to ~~the licensed casino~~the Commission.

(c) The licensed casino may not disclose the name of any person on the self-exclusion list to any third party unless specifically authorized by these regulations or required by a court order specifically requiring the release of mental health records and information.

(d) No owner licensee, applicant or licensed casino employee or casino key employee or casino employee or casino key employee applicant who obtains identifying information about a person on the self-exclusion list from any source may disclose the name or identifying information of the self-excluded person, except as necessary to effectuate, or as specifically permitted by, these regulations.

(e) Any licensee or applicant for license and any approved casino employee or casino key employee or casino employee or casino key employee applicant who knowingly discloses, authorizes disclosure, permits a disclosure, or otherwise assists in the disclosure of the identity of a person on the self-exclusion list shall be subject to discipline for each disclosure, including but not limited to any disclosure by any of its officers, directors, employees, attorneys, agents and contractors, unless the disclosure complies with the following provisions:
(1) The disclosure is made on the same need to know basis restriction applicable to mental health information to staff for the sole purpose of effectuating the approved internal control responsibilities.
(2) The disclosure is made for the sole purpose of effectuating the self-exclusion program and this Part as to any customer tracking system, customer identification system, chips and token exchange system, financial transactions system, or check and credit system.
(3) The disclosure is made in compliance with the approved internal controls.

(f) Nothing in this section prohibits disclosure of the name of a person on the self-exclusion list to the Commission or its staff or to a person authorized in writing by the self-excluded person on the self-exclusion list to receive such information.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2935 Request for Removal from the Self-Exclusion List.

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(a) Upon the expiration of one~~five~~ years from the date of placement on the self-exclusion list, any person who has been placed on the self-exclusion list may request the Executive Director to remove his or her name from the self-exclusion list. The request must be in writing, state with specificity the reason for the request and be submitted to the casino licensee~~Executive Director at the Commission's office~~ in Saipan. The request must be based on the elimination of a mental health or medical condition underlying the person's acknowledgment that he or she has been a problem gambler and unable to gamble responsibly. Information as to mental health or medical conditions will be maintained pursuant privacy provisions of the Commonwealth constitution and other applicable federal and Commonwealth laws.

(b) If the casino licensee~~Executive Director~~ approves the request, the casino licensee ~~Executive Director~~ shall inform the Commission~~casino licensee~~ of the removal no later than 10 days after approval. If the casino licensee~~Executive Director~~ denies the request, the ~~Executive Direct~~casino licensee~~or~~ shall send to the person who has requested removal a notice of denial of removal from the self-exclusion list by certified mail. The casino licensee may continue to deny gambling privileges to self-excluded persons who have been removed from the list.

(c) A decision whether to remove a person from the self-exclusion list shall be within the discretion of the ~~Executive Director~~casino licensee, subject to the fulfillment of all requirements under § 175-10.1-2940 and further subject to the process provided by § 175-10.1-2945.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2940 Required Information, Recommendations, Forms and Interviews.

(a) A person requesting removal from the self-exclusion list must, in connection with the request, provide the ~~Executive Director~~casino licensee with all of the following:
(1) Documentation as to treatment received for the person's gambling problem, length of treatment, and names and qualifications of treatment providers.
(2) A written recommendation, from a treating physician or qualified mental health professional who is a certified gambling counselor, as to the self-excluded person's capacity to participate in gambling without adverse health and mental health risks or consequences related to gambling. For purposes of this section, "certified gambling counselor" means an individual who has completed a specific course of study in the treatment of problem gambling and has been certified by a certification organization acceptable to the Commission and listed on the Commission's website.
(3) Upon request of the ~~Executive Director~~ casino licensee, a written recommendation, from a second or subsequent physician or qualified mental health professional who is a certified gambling counselor, as to the self-excluded person's capacity to participate in gambling without adverse health and mental health risks or consequences related to gambling.

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(4) All information required under §175-10.1-2915(a)(1)–(7).
(5) A statement informing the ~~Executive Director~~casino licensee whether the person has been present at the licensed casino while not working while on the self-exclusion list and, if so, the dates and times of attendance.
(6) A waiver of liability of the Commission, its agents and the Commonwealth for any damages that may arise out of any act or omission committed by the person as a consequence of his or her removal from the self-exclusion list, including any monetary or other damages sustained in connection with the person's renewal of any gambling or gaming activities of any kind.
(7) A verified, written consent to the release of all of the person's medical and counseling records related to the proposed removal from the self-exclusion list.
(8) Any additional information, forms, recommendations, or other materials necessary, as determined by the ~~Executive Director~~casino licensee, to demonstrate the elimination of the mental health or medical condition underlying the person's acknowledgement that he or she has been a problem gambler and unable to gamble responsibly.

(b) Upon request of the ~~Executive Director~~casino licensee, a person seeking removal from the self-exclusion list shall appear for an interview at an office of the ~~Commission designated by the Executive Director~~ casino licensee during regular business hours. Persons who are unable to travel to the casino licensee ~~a Commission office~~ due to employment, financial or medical reasons may request, in writing, a reasonable accommodation in a manner or at a site and time designated at the sole discretion of the ~~Executive Director~~casino licensee. Nothing in this section shall require that an accommodation be granted.

(c) The ~~Executive Director~~casino licensee shall ascertain to the extent possible whether a person requesting removal from the self-exclusion list was ever present in the area within the licensed facilities for purposes other than work while on the list.

(d) The ~~Executive Director~~casino licensee shall not rule on a request for removal from the self-exclusion list until all requirements of this section have been fulfilled.

Modified, 1 CMC § 3806(f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed "Subpart" to "section" in (a)(2) pursuant to 1 CMC § 3806(g).

§ 175-10.1-2945 Appeal of a Notice of Denial of Removal.

(a) A denial by the ~~Executive Director~~casino licensee of a request by a self-excluded person to be removed from the self-exclusion list pursuant to § 175-10.1-2935 shall be subject to review by the Commission upon a verified written petition submitted to the Commission within fifteen days after the issuance of the notice of denial of removal, which shall be deemed to be notice required by § 175-10.1-1420(a).

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(b) The petition shall state with specificity facts believed by the petitioner to constitute clear and convincing evidence for removal of his or her name from the self-exclusion list. The petition shall be notarized and shall include a certification in the following form:

> The undersigned certifies that the statements set forth in this petition are true and correct, except as to matters in the petition stated to be on information and belief. As to matters stated to be on information and belief, the undersigned certifies that he or she believes these matters to be true and correct.

(c) The Commission shall either deny the petition or set the petition for hearing. The Commission may deny a petition if:
(1) The petition fails to comply with any of the requirements of subsection (a) or (b);
(2) The facts contained in the petition are the same or substantially the same facts that the petitioner set forth in a previous petition filed under this section; or
(3) The petition, assuming all facts contained in it are true and correct, does not establish a prima facie case.

(d) In the event the Commission elects to set the petition for hearing, the procedures specified for other contested cases.

(e) For purposes of hearings conducted under this section, all information, recommendations, forms, records of interviews and other materials, formal and informal, obtained by the ~~Executive Director~~casino licensee shall be considered official Commission records and therefore admissible into evidence.

(f) All proceedings related to an administrative hearing on a notice of denial of removal shall be closed to members of the public unless otherwise consented to in writing by the self-excluded person or allowed by federal or state law.

(g) The Commission's denial of a petition brought under this section is a final decision of the Commission.

Modified, 1 CMC § 3806(d), (f)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-2965 Third Party Exclusion Procedures.

(a) A person ("applicant") can apply to the ~~Executive Director~~casino licensee on behalf of his or her legally married spouse ("patron") for inclusion into an exclusion program because of concern that the patron is a problem gambler.

(b) Upon receipt of the application, the ~~Executive Director~~casino licensee may:

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(1) Ask for the name and any available identification of the potential problem gambler from the applicant;
(2) Inform the applicant that the casino licensee will, within 30 days ~~of notification from the CCC~~, compare the behavior of the patron to the casino licensee's problem gaming policies, and approach the patron if their gaming history indicates actual or potential harm arising from gambling;
(3) Inform the applicant that the casino licensee will mail problem gambling information to the patron if the patron's mailing address is known;
(4) Provide the applicant with problem gambling information and details of how to obtain support to the patron for problem gambling;
(5) Inform the applicant that neither the ~~CCC~~ Executive Director nor the casino licensee will provide the applicant with any personal information of the patron which comes to the attention of the ~~CCC~~ Executive Director or the casino licensee.
(6) The Executive Director may promulgate any needed form or procedure to implement this regulation. The forms shall, at a minimum, ensure that the applicant has the required relationship with the patron and the applicant must state the reasons why the patron should be excluded. The applicant must provide supporting evidence, for example, financial records, proving that the patron's family is in financial difficulty as a result of the patron's gambling activity. The applicant must complete a declaration under penalty of perjury confirming their request for third party exclusion of the patron and listing the reasons therefore.

(c) Within five days of receipt of an application including the completion of all required forms, the ~~Executive Director~~casino licensee shall provide the ~~casino licensee~~Executive Director with a copy of the application and any other relevant information ~~the Executive Director deems relevant~~.

(d) Within 25 days of receipt of the information listed in subsection (c), the casino licensee shall:
(1) Compare the behavior of the patron to the casino licensee's problem gaming policies, and approach the patron if their gaming history indicates actual or potential harm arising from gambling;
(2) Attempt to meet with the patron to determine if sufficient facts and evidence exist to warrant the exclusion of the patron as a problem gambler. The patron may be afforded an opportunity to explain why the patron should not be excluded. The casino licensee may make further enquiries before making a decision about excluding the patron;
(3) Hand deliver problem gambling information to the patron if he visits the casino or mail problem gambling information to the patron if the patron's mailing address is known;
(4) Decide whether the patron will be excluded if the patron chooses not to self-exclude;
(5) Inform the Executive Director of the results of the activities listed in subsections (1)–(4).

(e) Exclusion Decision.

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(1) If the patron decides to self-exclude, the casino licensee shall immediately inform the Executive Director ~~CCC~~ of that fact and the casino licensee shall immediately provide to the patron the self-exclusion forms required by this Part.
(2) If the patron does not wish to self-exclude, the casino licensee shall decide whether or not to proceed with the exclusion of the patron.

(f) Notification of exclusion. If the casino licensee determines that the patron should be excluded, it shall provide the patron with written notification thereof.

(g) Ending the Exclusion. After at least six months~~two years~~, the patron can apply to have the ban lifted and the exclusion terminated.
(1) The patron must provide evidence that his or her gambling is under control and done for reasons other than compulsion. This may be in the form of a supporting letter from a medical professional or certified gambling counselor.
(2) The patron shall be required to undertake an assessment interview with the casino licensee prior to the ban being lifted and termination of the exclusion.
(3) At least ten days prior to the termination of the exclusion, the casino licensee must notify the Commission.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 40 Com. Reg. 40910 (Aug. 28, 2018); Proposed 40 Com. Reg. 40590 (Mar. 28, 2018).

Part 3000 - PATRON DISPUTES

§ 175-10.1-3001 Investigation and Decision of Executive Director.

(a) Whenever the casino licensee, or its employee, refuses payment of alleged winnings to a patron, the licensee and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:
(1) At least five hundred dollars ($500), the licensee shall immediately notify the Executive Director; or
(2) Less than five hundred dollars ($500), the licensee shall inform the patron of his right to request that the Executive Director conduct an investigation.

(b) The Executive Director shall conduct whatever investigation is deemed necessary and shall determine whether payment should be made. Thereafter, the Executive Director shall issue an appropriate order. This order shall not constitute a waiver, suspension, or modification of the requirements of the Commission regulations, which remain in full force and effect. Issuance of this order is not an election by the Commission, Executive Director, or the Commonwealth to forego any civil or any criminal action otherwise authorized by any other applicable law or regulation.

(c) The Executive Director shall provide written notice to the Commission, the licensee and the patron of his decision resolving the dispute within thirty days after the date the Executive Director first receives notification from the licensee or a request to conduct an investigation from the patron.

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(d) Failure to notify the Executive Director or patron as provided in subsection (a) is an unsuitable method of operation.

(e) The decision of the Executive Director is effective on the date the aggrieved party receives notice of the decision. The date of receipt is presumed to be the date specified on the return receipt, if the notice was mailed.

(f) Notice of the decision of the Executive Director shall be deemed sufficient if it is mailed to the last known address of the licensee and patron. The date of mailing may be proven by a certificate signed by an employee of the Executive Director that specifies the time the notice was mailed. The notice is presumed to have been received by the licensee or the patron five days after it is deposited with the United States Postal Service with the postage thereon prepaid.

Modified, 1 CMC § 3806(e)–(g).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

§ 175-10.1-3005 Construction.

This Part should be liberally construed to achieve fair, just, equitable, and expedient resolutions of all patron disputes.

Modified, 1 CMC § 3806(a).

History: Adopted 38 Com. Reg. 38619 (Oct. 28, 2016); Proposed 38 Com. Reg. 38424 (Aug. 28, 2016).

Commission Comment: The Commission changed (a) to a leading paragraph pursuant to 1 CMC § 3806(a).

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

IN THE MATTER Of: CNMI Department of Labor Enforcement Section (Tinian) Complainant, v. Bridge Investment Group, LLC. Respondent.	**CAC No. 17-002-04(T)** **FINAL JUDGMENT**

This matter came for an online evidentiary hearing on October 15, 2020 at 9:00 a.m. at the Administrative Hearing Office. Complainant CNMI Department of Labor Enforcement Section (Tinian) ("Complainant") was present and represented by Investigator Ramona-Cabrera Viches and Chief Solicitor Robert J. Glass. Respondent Bridge Investment Group, LLC ("Respondent") was present and represented by Human Resource Director Yenise Peralta and Compliance Officer Gemma Chong.

On June 26, 2020, the undersigned issued an Administrative Order entering Judgment against Respondent for violations of 3 CMC § 4937 and NMIAC § 80-20.1-240. In addition to a $12,000 sanction for agency violations, Respondent was ordered to pay each affected employee their respective wages, at their customary rate of pay and hours, for one month's time. On July 23, 2020, Complainant filed the corrected[1] Notice to Appeal to contest the amount of the judgment and request a payment plan. Complainant did not contest the findings of fact or conclusions of law. There were no other issues on appeal.

On August 24, 2020, the matter was remanded to Administrative Hearing Office to clarify the amount of judgment and payment terms. Pursuant to the factual stipulation and exhibit A filed by the parties, the undersigned finds Complainant is liable to pay a total of $29,308 in back wages and $12,000 in sanctions.

[1] Complainant timely filed the correct form with a number of errors. For that reason, Complainant was allowed to file the corrected form after the 15 day deadline to file.

Complainant shall pay each of the below-mentioned employees their back wages, as calculated below:

Affected Employees	Amount of Back Wages Owed
Acido, Jennylyn O.	$ 1,280.00
Aldan, Brandon M.	$ 1,200.00
Aldan, Joaquin Jr. B.	$ 1,400.00
Aldan, Perry M.	$ 1,360.00
Aldan, Vanna B.	$ 1,360.00
Aquininggoc, Terence M.	$ 1,440.00
Cabrera, Henry Jr. A.	$ 1,200.00
Cabulay, Michael John	$ 1,280.00
Cruz, Dachelbai, B.	$ 1,440.00
Dela Cruz, Kaisha S.	$ 1,280.00
Diaz, Francisco	$ 1,600.00
Lazaro, Rudolfo Jr. S	$ 1,280.00
Lizama, Luciana H	$ 1,280.00
Manglona, Joe Raymond B.	$ 1,440.00
Masga, Bruce E.	$ 1,600.00
Natividad, Frances Ann S.	$ 1,280.00
Reyes, Robin Rae D.	$ 1,280.00
Sandbergen, Allen F.	$ 1,280.00
San Nicolas, Junell Joemar P.	$ 1,400.00
Santos, Ramon Francisco D.	$ 1,280.00
Shai, Edward D.	$ 1,600.00
Casilla, Quirino C.	$ 748.00

Respondent shall make payment by check or money order within thirty (30) days of this Amended Judgment. Respondent shall deliver the check or money order to the CNMI Department of Labor Enforcement Section Office in Tinian. Complainant will account for the payments and promptly distribute to affected employees. Complainant shall file copies of checks and acknowledgement of receipts shall at the Administrative Hearing Office within forty five (45) days of this Amended Judgment.

With respect to the sanctions, Respondent shall make payment by check or money order payable to the CNMI Treasury. Respondent shall pay three (3) equal installments of $4,000 by the first of the month, beginning November 1, 2020. The remaining monthly payments shall be due December 1, 2020 and January 1, 2021. Respondent should submit payment early in case of holidays and closure of government offices. Respondent shall file copies of checks and receipts at the Administrative Hearing Office as proof of payment within five (5) days of payment.

The Administrative Hearing Office shall retain jurisdiction to ensure compliance of this Judgment. In the event Respondent fails to make complete and timely payment, Complainant may file a request to reopen this case and request for an Order to Show Cause to which the full sum will become immediately due, plus additional sanctions for failure to comply.

So ordered this **19th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY

In Re Matter of:	**Labor Case No. 19-057**
	Secretary Appeal No. 20-002
Christopher R. Lilles,	
Appellant,	**FINAL AGENCY DECISION**
v.	
Micronesia Resort, Inc.,	
Respondent.	

I. INTRODUCTION

On August 18, 2020, Appellant timely filed a notice of appeal regarding the Findings of Fact and Conclusions of Law entered by the Administrative Hearing Officer in this case. Appellant argues that 1) the Administrative Hearing Officer abused her discretion in refusing to consider materials submitted by Appellant, i.e. page 20 of the employee handbook, and 2) the Administrative Hearing Officer erred in holding that the employment contract was the only source of legal duty binding the employer.

II. LEGAL STANDARD

"An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee . . ." NMIAC 80-20.1-490(a). "The record before the Secretary consists of the complaint, pleadings filed, exhibits, and order of the hearing officer." NMAIC § 80-20.1-490(c). "When the Secretary is exercising jurisdiction over appeals from final orders of the Administrative Hearing Office, the Secretary shall have all the powers and responsibilities of a hearing officer. No hearing or oral argument on an appeal is required." NMIAC 80-20.1-490(d). "In a review on appeal, the Secretary may restrict review to the existing record, supplement the record with new evidence, hear oral argument, or hear the matter de novo pursuant to 1 CMC §§ 9109 and 9110. Upon completion of review, the Secretary shall affirm, reverse or modify the findings, decision, or order of the hearing office." NMIAC § 80-20.1-490 (e).

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III. DISCUSSION

Upon review of the record and Notice of Appeal, the undersigned finds that the Appellant fails to meet their burden on appeal.

1. The Administrative Hearing Officer did not abuse her discretion in declining to consider exhibits submitted after the record was closed.

The Employment Rules and Regulations provide:

> When a hearing is conducted, the record shall be closed at the conclusion of the hearing unless the hearing officer directs otherwise. If any party waives a hearing, the record shall be closed upon receipt of submissions of the parties or at the time deadlines set by the hearing officer for receipt of such submissions. Unless the hearing officer directs otherwise, no document or other evidentiary matter may be submitted after the record is closed.

NMIAC § 80-20.1-480 (m).

Here, both parties were ordered to submit exhibits to the Administrative Hearing Office prior to the commencement of the hearing on July 29, 2020. The record shows that Appellant did not submit page 20 as an exhibit and did not introduce page 20 into evidence at the hearing. It was only after the close of the hearing that Appellant attempted to submit page 20 of the employee handbook into the record. Accordingly, Appellant's submission of page 20 was untimely and the Administrative Hearing Officer's decision not to consider page 20 was properly based on the applicable regulation.

2. Appellant's argument to consider the policies is not persuasive.

Appellant argues that the Administrative Hearing Officer should have also considered the employee handbook and Appellee's email, which contained information on the employer's duty to pay out vacation leave. The undersigned disagrees.

First, Appellant fails to cite any applicable precedent in support of this argument—instead, Appellant cites laws from outside jurisdiction and does not develop legal analysis.[1] While employers may be held contractually obligated to the promises in an employee handbook, contract

[1] Legal arguments should be supported by law and analysis. When arguments are insufficiently developed or raised in a conclusory manner, arguments are deemed waived. *Mengli Ma v. Osman Gani and Xiao Tang Sanchez dba 24/7 Enterprises*, Consolidated Labor Case Nos. 19-018 to 19-011 (Administrative Order Granting Respondents' Motion to Dismiss for Lack of Jurisdiction at 42 Com. Reg. 044125-044126 (September 28, 2020).

interpretation issues are made based on the language within "four corners of the document."[2] Under Commonwealth law, it is improper to look to outside documents to supplement, contradict, or explain what the contract means if the contract is unambiguous.[3] Here, the Hearing Officer found the contract was unambiguous and decided the issue based on the four corners of the document.

Second, there is nothing in the record to show that the employee handbook was a legally binding contract or that the employee handbook created a legal obligation to pay for any unused leave. The undersigned recognized that Respondent's Assistant Human Resources Manager testified that the company has a "policy" for paying employee unpaid leave. However, said policy falls short of a contract or contractual obligation. Therefore, the Administrative Hearing Officer did not err in relying on the four corners of the employment contract to determine whether Appellee was required to pay for any unused leave.

IV. CONCLUSION

Accordingly, pursuant to NMIAC § 80-20.1-490 (e), the Administrative Hearing Officer's decision is **AFFIRMED**.

ORDERED this **5th** day of October, 2020.

VICKY BENAVENTE
Secretary of Labor

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[2] *Saipan Achugao Resort Members Ass'n v. Wan Jin Yoon*, 2011 MP 12 ¶ 15 (quoting *Commonwealth Ports Auth. v. Tinian Shipping Co.*, 2007 MP 22 ¶ 16.

[3] *Riley v. Public School System*, 4 NMI 85, n4 (1994); *Santos v. Santos*, 2000 MP ¶ 22; *Rosario v. Camacho*, 2001 MP 3 ¶ 66.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0002**
Rogelio P. Bordon, Jr.	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 17, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Rogelio P. Bordon, Jr. ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Director of Employment Services Eugene Tebuteb and PUA Supervisor Jake Maratita. There were no other witnesses who provided testimony at the hearing.[1] The following exhibits have been admitted onto the record:

Exhibit 1: A copy of Appellant's Employment Authorization Card

Exhibit 2: SAVE Response Document submitted by Department;

Exhibit 3: A copy of USCIS Employment Authorization Document Codes Catalog (3 pages)

Exhibit 4: Appendix G of USDOL ETA Handbook, Appendix G

For the reasons stated below, the Department's Determination dated September 1, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 15, 2020 to December 26, 2020.

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[1] Appellant's wife was present but did not provide testimony.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[4] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals under PUA.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 1, 2020. The Department's determination found the Appellant was not a qualified alien denied benefits from March 15, 2020 to December 26, 2020.

Appellant filed the present appeal on September 4, 2020. The issue on appeal is whether Appellant is a qualified alien eligible for Pandemic Unemployment Assistance.

IV. FINDINGS OF FACT

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

1. Prior to the pandemic, Appellant was employed as a News Camera Man for KSPN, Channel 2 located in Susupe, Saipan. Appellant regularly worked 40 hours per week at an hourly rate of $10.
2. Appellant is still employed with KSPN, but on reduced hours since the office is closed Tuesdays and Thursdays, effective March 23, 2020 to present.

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[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii Employment Security Law applies, to the extent it does not conflict with federal law.

3. At the time of employment, Appellant was authorized to work in the CNMI.
4. Appellant applied for permanent residency on or around July 2019. Appellant's application for permanent residency is still pending.
5. Appellant possesses an Employment Authorization Card[5] with the following credentials:
    a. USCIS #: 208-787-206;
    b. Category: C09;
    c. Card #: MSC1991274061; and
    d. Valid from September 4, 2019 to September 3, 2020.
6. The Employment Authorization Document Card is a work permit that allows noncitizens to work in the United States.
7. The Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by US Department of Homeland Security, U.S. Citizenship and Immigration Services, Verification Division. This database is used to determine the immigration status of PUA applicants so only those entitled to benefits receive them.
8. The SAVE results indicate that Appellant is a nonimmigrant, authorized for temporary employment.[6] This means that Appellant is a non-national of the Unites States who is admitted to the United States for a specific reason and for a limited period of time.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[7] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed,

[5] Exhibit 1.
[6] Exhibit 2.
[7] This was not at issue in this matter.

partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

(b) A member of the individual's household has been diagnosed with COVID-19;

(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;

(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;

(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;

(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;

(i) The individual has to quit his or her job as a direct result of COVID-19;

(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Due to COVID-19, there was an immediate halt in tourism. The lack of tourism greatly impacted the revenue streams of businesses throughout the CNMI, including KSPN Channel 2. For those reasons, the employer had to reduce hours by closing the office and operations on Tuesdays and Thursdays, every week. Accordingly, Appellant employment was directly affected by a COVID-19 reason, as indicated above.

2. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant argues that he is a qualified alien because he applied for permanent residency around July 2019 and that his application is pending because of delays associated with the pandemic.

Appellant's argument fails for the following reasons. First, the Employment Authorization Document Card indicates that Appellant was authorized to work based on Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. Category C09 does not fit into any type of qualified aliens entitled to benefits under the PUA program. While Appellant may have submitted an application for permanent residence, the application for permanent residency has not been approved. Further, considering that the application is still pending, there is no showing that Appellant was a permanent resident during the weeks claimed. Therefore, Appellant was not a qualified alien at the time of the weeks claimed.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 15, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter to indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357,

Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **24th** day of September, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0003**
Pedro Litulumar Romolor	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 15, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Pedro Litulumar Romolor ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Director of Employment Services Eugene Tebuteb and PUA Supervisor Jake Maratita. There were no other witnesses who provided testimony at the hearing.[1] The following exhibits have been admitted onto the record:

Exhibit 1: Employer's Separation Notice dated 6/12/2020

Exhibit 2: Appellant's Doctors Certification dated 8/31/2020

For the reasons stated below, the Department's Redetermination dated August 25, 2020 is **MODIFIED.** Claimant is qualified for benefits for the period March 29, 2020 to April 23, 2020. Claimant is disqualified for benefits for the period of April 23, 2020 to present.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits

[1] Appellant's wife, Lorenza Itibus Romolor, was present but did not provide testimony.

called Pandemic Unemployment Assistance ("PUA") and Federal Pandemic Unemployment Compensation ("FPUC"). On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[2] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals under PUA.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination denying benefits on July 24, 2020.

On August 11, 2020, Appellant filed a timely request for reconsideration but failed to submit additional information or documents to support reconsideration. Accordingly, the Department issued a redetermination on August 25, 2020. The Department's redetermination found Appellant ineligible because he failed to submit any additional documentation to support his request for reconsideration. Based on the redetermination, Appellant was denied benefits from March 29, 2020 to December 26, 2020.

Appellant filed the present appeal on September 3, 2020. The issue on appeal is whether Appellant is eligible for Pandemic Unemployment Assistance.

IV. FINDINGS OF FACT

In consideration of the record and credibility of witness testimony, the undersigned issues the following findings of fact:

1. Appellant is employed by G4S. G4S is a private security company contracted to provide guards at various businesses and common tourist sites on Saipan.

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[2] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii Employment Security Law applies, to the extent it does not conflict with federal law.

2. Appellant worked as a Security Officer at G4S from October 9, 2013 to March 29, 2020. Appellant is a regular, full-time employee with a work week of 32 hours or more per work week. Appellant is paid at the rate of $7.25 per hour.
3. During the relevant time period, Appellant was stationed to guard a number of hotels and tourist sites. However, due to the halt in tourism and reduction of business activity, Appellant's stations were shut down when various G4S contracts were cancelled or placed on hold.
4. Appellant was scheduled to report for work at the Bank of Hawaii station on April 23, 2020. Appellant showed up to his assigned post but quickly left because: (1) he was not equipped with a mask or able to afford a mask; (2) there were a lot of people in the area; and (3) he has a prior health condition.
5. While Appellant is still employed with G4S, the last day Appellant worked for G4S was March 29, 2020. He has not been scheduled to work since April 23, 2020, when he refused to work at the Bank of Hawaii station.
6. Appellant is under medical care for hypertension and chest pains unrelated to COVID-19. On August 31, 2020, Appellant's doctor certified that Appellant is at an increased risk for COVID-19.
7. Appellant has not looked for other or related work since the pandemic.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant failed to supply documents in a timely manner.

Under Haw. Code R. § 12-5-81(i-j), a claimant is required to respond or complete an action as directed by the agency. This includes reporting to appointments scheduled by the agency and/or requests to provide information or documents. If a claimant fails to respond as directed, s/he is not eligible for benefits in the affected week, unless good cause is shown for the failure. The standard of "good cause" is generally considered to include exigent circumstances or those beyond the control of the claimant such as illness, and/or other reasons which would prevent a reasonable person from complying as directed.

Upon reconsideration, Appellant was ordered to supply the Department with additional documents to support his continued eligibility, in light of the separation notice indicating

Appellant was recalled to work but did not show. Appellant did not submit those documents within the time frame provided because he did not have said documents. Without additional evidence or documents to support reconsideration, the Department had no choice but to issue the denial.

2. Appellant is eligible for PUA from March 29, 2020 to April 22, 2020 because his place of Employment was closed as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[3] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii state law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

(b) A members of the individual's household has been diagnosed with COVID-19;

(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;

(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;

(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;

(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;

(i) The individual has to quit his or her job as a direct result of COVID-19;

[3] For claimants working solely in the CNMI, this is not an issue.

(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Due to the threat of COVID-19, there were closures of government offices, restrictions on private businesses, and an overall reduction in revenue from the immediate halt in tourism. The lack of tourism greatly impacted the revenue streams of government offices and private businesses that hire security guards as independent contractors. For that reason, many G4S contracts were terminated or put on hold. Further, with tourism down, contracts to guard the tourist sites and hotels were widely affected. With respect to Appellant, the locations he was guarding closed. Accordingly, the Appellant's place of employment was closed as a direct result of the COVID-19 public health emergency.

3. Appellant is not eligible for PUA after April 23, 2020 when he turned down suitable work due to a general fear of contracting COVID-19.

Generally, in order to remain eligible for PUA, the CARES Act requires the individual to certify that they are able and available to work, except for a COVID-19 reason. The terms "able" and "available" are defined by Hawaii state law. A person is considered "able" to work if the individual has the physical and mental ability to perform the usual duties of the individual's customary occupation or other work for which the individual is reasonably fitted by training and experience.[4] If the claimant is medically not able to work because of one of the COVID-19 reasons listed above, the individual may still be eligible. A person is considered "available" to work is the individual is reading and willing to accept employment for which the individual is reasonably fitted by training and experience. [5] Refusing to return to work in order to obtain PUA benefits is considered fraud. Further, an individual is not eligible if they turn down suitable work, unless for a COVID-19 reason above.

Here, Appellant was given the opportunity to work on April 23, 2020. Appellant was scheduled to guard the Bank of Hawaii post in Gualo Rai, Saipan. While the location of this

[4] HAR § 12-5-35(a)(1).
[5] HAR §12-5-35(a)(2).

assignment is different, the work to be done was the same. Since the work and the employer were the same, there is no question that Appellant was reasonably fitted by training and experience to do the job.

However, Appellant refused to work because he did not bring a mask, there were a lot of people in the area, and he has a prior health condition unrelated to COVID-19. Notably, a prior health condition and general fear of contracting COVID-19 is not one of the qualifying COVID-19 reason to turn down suitable work.

The Doctor's Certification provided by Appellant states that he is under care for hypertension and investigations for chest pain which place him at an increased risk of COVID-19.[6] The Doctor's Certification is insufficient to qualify or make Appellant eligible for the PUA for a number of reasons. First, the Doctor's Certification provides no requirements or orders for Appellant to quarantine. Second, Appellant's health circumstances are unrelated to and predate the COVID-19 pandemic. Third, even if the undersigned were to interpret the provisions stating Appellant is at an increased risk as an order to self-quarantine, this Doctor's Certification is dated August 31, 2020 – months after Appellant refused to work.

In summary, a general fear of contracting COVID-19 is not a qualifying reason under the CARES Act. By refusing suitable work based on a general fear of contracting COVID-19, Appellant demonstrates that he is not "able" and "available" to work, as required by the CARES Act. Accordingly, Appellant is not eligible to receive PUA benefits starting April 23, 2020.

VI. ORDER

Having reviewed the record and applicable law, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **MODIFIED**;
2. Appellant is **ELIGIBLE** to receive PUA benefits for the period of March 29, 2020 to April 22, 2020; and
3. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of April 23, 2020 to the date of this writing.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter to indicating why he or she disagrees with the decision.

[6] *See* Exhibit 2.

The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **24th** day of September, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0006**
Peter D. Serafin	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 24, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Peter D. Serafin ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Director of Employment Services Eugene Tebuteb and PUA Supervisor Jake Maratita. There were no other witnesses who provided testimony at the hearing. The following exhibits have been admitted onto the record:

1. Exhibit 1: A copy of Appellant's Employment Authorization Card (valid from 9/11/20 - 9/10/21)
2. Exhibit 2: A copy of Appellant's Employment Authorization Card (valid from 9/11/19 to 9/10/20);
3. Exhibit 3: A copy of SAVE Results submitted by the Department

For the reasons stated below, the Department's Determination dated September 8, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of February 23, 2020 to December 26, 2020.

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II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[3] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 8, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits from February 23, 2020 to December 26, 2020. Appellant filed the present appeal on September 10, 2020. Appellant is appealing the denial for the weeks of February 23, 2020 to August 8, 2020. The issue(s) on appeal is whether Appellant is a qualified alien eligible for PUA.

IV. FINDINGS OF FACT

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

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.

[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.

[3] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1. Prior to the pandemic, Appellant was employed as a Supervisor in housekeeping at Imperial Pacific International (CNMI), LLC ("Employer") located in Garapan, Saipan. Appellant regularly worked 40 hours per week at an hourly rate of $11.
2. Sometime in February, Appellant's hours were reduced to approximately 28 hours. Starting the week of May 23, 2020, Appellant was furloughed with zero hours. Employer recalled Appellant to temporarily return to work for one week, starting August 8, 2020. Appellant returned to work for that one week, and hasn't been recalled since.
3. The reduction in hours and separation was due to the hotel's closure during the declared public health emergency.
4. On August 17, 2020, Appellant secured other employment and stopped submitting claims for PUA.
5. At the time of employment, Appellant was authorized to work in the CNMI. During the weeks claimed, Appellant possessed a valid Employment Authorization Document ("EAD")[4] card with the following credentials:
    a. Date of Birth: October 19, 1981
    b. USCIS #: 219-247-135
    c. Category: C09
    d. Card #: MSC1991312844
    e. Valid from September 11, 2019 to September 10, 2020.[5]
6. Appellant's EAD Card was renewed with the following credentials:
    a. Date of Birth: October 19, 1981
    b. USCIS #: 219-247-135
    c. Category: C09
    d. Card #: IOE0909304060
    e. Valid from September 11, 2020 to September 10, 2021.[6]
7. The Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by US Department of Homeland Security, U.S. Citizenship and Immigration Services, Verification Division. This database is used

[4] An EAD is a work permit that allows noncitizens to work in the United States.
[5] Exhibit 2.
[6] Exhibit 1.

to determine the immigration status of PUA applicants so only those entitled to benefits receive them.

8. The SAVE results indicate that Appellant is a non-national of the U.S. that has filed an application with USCIS for an extension, change, or adjustment of status or to obtain employment authorization, but a decision has not yet been made. The results confirm that Appellant's employment authorization is under Category C09.[7]
9. Appellant applied for permanent residency in June of 2018. His interview with USCIS was originally schedule on or around March of 2020. Appellant's interview was cancelled due to the COVID-19 public health emergency and closure of government offices. As of the date of the hearing, Appellant's application is still pending.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[8] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

(b) A member of the individual's household has been diagnosed with COVID-19;

(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;

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[7] Exhibit 3.
[8] This is not at issue in this case.

(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;

(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;

(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;

(i) The individual has to quit his or her job as a direct result of COVID-19;

(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Due to COVID-19, there was an immediate halt in tourism. The lack of tourism greatly impacted the revenue streams of businesses and hotel industries, such as Employer. Due to the lack of tourism and revenue, as well as the public health emergency prompted by COVID-19, Employer had to reduce hours, furlough staff, and close the business. Accordingly, Appellant's employment was directly affected by a COVID-19 reason, indicated above.

2. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or

8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant argues he qualifies as a an EAD holder under category F2A, or alien being the spouse of an alien lawfully admitted for permanent residence. In support of their argument, Appellant only provides the following documents his EAD cards. When asked for additional documents to establish Appellant's argument, Appellant had no other documents.

The undersigned finds that the evidence is insufficient to establish that the Appellant is a qualified alien. Sufficient evidence to establish that Appellant is an alien granted conditional entry pursuant to § 207 (a)(7) of the INA includes: (1) the INS Form I-94 with stamp showing admission under § 203(a)(7) of the INA; (2) INS Form I-688B annotated 274a.12(a)(3); or (3) INF Form I-766 annotated A3. No such documents have been provided or admitted into evidence. Notably, the EAD cards indicate that Appellant was authorized to work based on Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. Category C09 is not considered a qualified alien. While Appellant may have submitted an application for permanent residence, the application for permanent residency has not been approved. Therefore, Appellant was not a qualified alien at the time of the weeks claimed.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 23, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter to indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **25th** day of September, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0007**
	)	
Orathai Suaiwan	)	
	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
	)	
v.	)	
	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
	)	
Appellee.	)	

Pursuant to Appellant's appeal of the Department's determination denying Pandemic Unemployment Assistance benefits, this matter was scheduled for an Administrative Hearing on September 24, 2020 at 10:00 a.m. before the undersigned. Subsequently, Appellant filed a request for reconsideration with the Department. Prior to the Administrative Hearing, Appellant confirmed in writing that she would like to pursue reconsideration first.

Accordingly, this appeal is hereby **DISMISSED**. In the event Appellant is unsuccessful at reconsideration, Appellant may file a new appeal. The Administrative Hearing scheduled for September 24, 2020 at 10:00 a.m. is **VACATED**.

So ordered this **24th** day of September, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0008**
Janice M. Lowe	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 28, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Janice M. Lowe ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Director of Employment Services Eugene Tebuteb and PUA Supervisor Jake Maratita. There were no other witnesses[1] who provided testimony at the hearing. The following exhibits have been admitted onto the record:

1. Exhibit 1: Appellant's Notice of Furloughs (4 pages)
2. Exhibit 2: Appellant's Forms I-797C Notice of Action (4 pages)
3. Exhibit 3: Appellant's Employment Authorization Card
4. Exhibit 4: Appellant's Certificate of Employment
5. Exhibit 5: Department's SAVE Results

For the reasons stated below, the Department's Determination dated September 8, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 8, 2020 to December 26, 2020.

[1] Appellant's Husband, Justin Lowe was present on the line and identified as a potential witness, however, additional testimony from Mr. Lowe was not necessary.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[4] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 8, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits from March 8, 2020 to December 26, 2020. Appellant filed the present appeal on September 11, 2020. Appellant is appealing the denial for the weeks of March 8, 2020 to December 26, 2020. The issue(s) on appeal is whether Appellant is a qualified alien eligible for PUA.

IV. FINDINGS OF FACT

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

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[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1. Prior to the pandemic, Appellant was employed as a Guest Service Agent in the Food and Beverage Department at Imperial Pacific International (CNMI), LLC ("Employer") located in Garapan, Saipan. Appellant regularly worked 40 hours per week at an hourly rate of $8.28 or annual salary of $17,222.40.[5]
2. Starting February 10, 2020, Appellant's hours were reduced due to the lack of customers. During this time, Appellant utilized her available paid time off to offset the reduction in hours. After March 14, 2020, Appellant stopped working because the business establishment closed. Effective April 6, 2020 to December 31, 2020, Appellant was placed on furlough, with zero hours and zero pay.[6]
3. Appellant has not been recalled into work or otherwise returned to the workforce since March 8, 2020.
4. Appellant entered the CNMI work force as a CNMI Only Transitional Worker ("CW 1"). After getting married in April of 2019, Appellant filed an application with the Department of Homeland Security, US Citizenship and Immigration Services ("USCIS") to change her status. Specifically, on July 29, 2019, Appellant filed an application for permanent residency, a spousal visa, and employment authorization. The applications were received August 8, 2019 and multiple Notice of Actions were subsequently issued.[7]
5. The above-stated applications or petitions for permanent residency and a spousal visa are currently pending with USCIS. While the application is pending, Appellant was granted employment authorization. Appellant possessed a valid Employment Authorization Document ("EAD")[8] card with the following credentials:
    a. Date of Birth: January 2, 1984
    b. USCIS #: 219-280-578
    c. Category: C09
    d. Card #: MSC1991484202
    e. Valid from October 4, 2019 to October 3, 2020.[9]

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[5] Exhibit 4.
[6] Exhibit 1.
[7] Exhibit 2.
[8] An EAD is a work permit that allows noncitizens to work in the United States.
[9] Exhibit 3.

6. The Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the immigration status of PUA applicants so only those entitled to benefits receive them.
7. The SAVE results indicate that Appellant is a non-national of the U.S. who has filed an application with USCIS for an extension, change, or adjustment of status or to obtain employment authorization, but a decision has not yet been made. The results confirm that Appellant's employment authorization is under Category C09.[10]

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[11] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;

[10] Exhibit 5.
[11] This is not at issue in this case.

(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Due to COVID-19, there was an immediate halt in tourism. The lack of tourism greatly impacted the revenue streams of businesses and hotel industries, such as Employer. Due to the lack of tourism and revenue, as well as the public health emergency prompted by COVID-19, Employer had to reduce hours, furlough staff, and close the business. Accordingly, Appellant's employment was directly affected by a COVID-19 reason, indicated above.

2. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant argues she qualifies as an "alien paroled into the US under §212(d)(5) of the INA for at least one year." In support of their argument, Appellant only provides the above-mentioned Notices of Action and EAD card.[12] When asked for additional documents to establish Appellant's argument, Appellant had no other documents.

The undersigned finds that the evidence is insufficient to establish that the Appellant is a qualified alien. Sufficient evidence to establish that Appellant is an "alien paroled into the US under ... INA for at least one year" include the INS Form 1-94 or Form I512L with stamp showing admission for at least one year under §212(d)(5) of the INA. No such documents have been provided or admitted into evidence. Notably, the EAD card and notices indicate that Appellant was authorized to work based on Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. Category C09 is not considered a qualified alien. While Appellant may have submitted an application for permanent residence and a spousal visa, said applications have not been approved. Therefore, Appellant was not a qualified alien at the time of the weeks claimed.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 8, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **30th** day of September, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

[12] *See* Exhibits 2-3.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:	**Labor Case No. 20-009**
MD Siful Islam, Complainant, v. Wilfredo D. Percil dba WRP Island Servitiks, Respondent.	**SUA SPONTE ORDER OF DISMISSAL**

On February 20, 2020, Complainant initiated a labor case against Respondent for "not offering job- papers fraud-never payed [*sic*] tax."[1] On June 23, 2020,[2] after Respondent's failure to submit an answer or response to the complaint, the matter was referred Enforcement for investigation to clarify the Complainant's allegations and determine whether any agency violations exist. Subsequently, Enforcement conducted several fact-finding interviews. On September 21, 2020, Enforcement filed a written determination recommending dismissal.

Pursuant to 3 CMC § 4947(a), "the hearing office 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." Further, "[i]f the complaint is not timely filed, the hearing office shall dismiss the complaint with prejudice." NMIAC § 80-20.1-465(e).

Here, both parties had an opportunity to be heard during the investigation phase. Additionally, the parties were provided notice when the determination recommending of dismissal was served to the parties. The parties have not filed any additional documents or arguments to rebut Enforcement's determination. Further, after careful review of the determination, there are no claims within the Administrative Hearing Office jurisdiction[3] that falls

[1] Complainant at 1.
[2] There were substantial delays in referring this matter due to the three month closure of government offices during the declared COVID-19 public health emergency.
[3] Notably, "not offering job-papers fraud-never payed [*sic*] tax" is not within the Administrative Hearing Office's jurisdiction. *See* 3 CMC § 4942.

within the six months statute of limitations.[4] Ultimately, the complaint is devoid of merit and cannot succeed. Accordingly, pursuant to 3 CMC § 4947(a) and NMIAC § 80-20.1-465(e), the complaint is hereby **DISMISSED**, with prejudice.

So ordered this **19th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

[4] 3 CMC § 4962.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0009**
	)	
Lorena M. Giovannoni	)	
	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
	)	
v.	)	
	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
	)	
Appellee.	)	
	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on September 29, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Lorena M. Giovannoni ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Director of Employment Services Eugene Tebuteb and PUA Supervisor Jake Maratita. There were no other witnesses who provided testimony at the hearing. The following exhibits have been admitted onto the record:

1. Exhibit 1: Appellant's Employment Certification Letter, dated April 6, 2020
2. Exhibit 2: Appellant's Furlough Letter, dated April 6, 2020
3. Exhibit 3: Appellant's Employment Authorization Card
4. Exhibit 4: Appellant's Separation Notice, dated June 14, 2020
5. Exhibit 5: Appellant's Paystubs for February 24 to March 22, 2020
6. Exhibit 6: Department's Save Results

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For the reasons stated below, the Department's Determination dated September 22, 2020[1] is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 24, 2020 to December 26, 2020.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[4] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 15, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits from March 24, 2020 to December 26, 2020. Appellant filed the present appeal on September 16, 2020. Appellant is appealing the denial for the weeks of March 24, 2020 to December 26, 2020. The issue(s) on appeal is whether Appellant is a qualified alien eligible for PUA.

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[1] Based on the Department's testimony, the Determination was issued September 15, 2020 but the online portal erroneously generated a "Mail Date" of September 22, 2020.
[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

IV. FINDINGS OF FACT

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

1. Prior to the pandemic, Appellant was employed as a Case Worker at Pacific Fertility Institute ("Employer") located in Puerto Rico, Saipan. Appellant regularly worked 40 hours per week at a rate of $10 per hour.[5]
2. On March 23, 2020, Employer temporarily closed its doors in response to the CNMI Governor's executive directive. Appellant was paid her customary hours and customer rate up until April 6, 2020.
3. Due to the economic impact of COVID-19 and lack of customers, Employer did not reopen for business. Effective April 6, 2020, Appellant was furloughed with zero hours and zero pay. [6]
4. Appellant has not been recalled into work or otherwise returned to the workforce since March 23, 2020.[7]
5. Appellant applied for permanent residency in October of 2019. Her application for permanent residency is still pending with the Department of Homeland Security, US Citizenship and Immigration Services ("USCIS").
6. In light of the pending application, Appellant was granted employment authorization. Appellant possesssd a valid Employment Authorization Document ("EAD")[8] card with the following credentials:
    a. Date of Birth: October 18, 1987
    b. USCIS #: 200-868-588
    c. Category: C09
    d. Card #: MSC209300745
    e. Valid from January 9, 2020 to January 8, 2021.[9]
7. The Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This

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[5] Exhibit 1.
[6] Exhibit 2.
[7] Exhibit 4.
[8] An EAD is a work permit that allows noncitizens to work in the United States.
[9] Exhibit 3.

database is used to determine the immigration status of PUA applicants so only those entitled to benefits receive them.

8. The SAVE results indicate that Appellant is a non-national of the U.S. who is admitted for a specific reason and for a limited period of time. The results further indicate that Appellant is temporarily allowed to work. The results confirm that Appellant's employment authorization is under Category C09.[10]

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[11] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;
(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;

[10] Exhibit 6.
[11] This is not at issue in this case.

(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Due to COVID-19, there was an immediate halt in tourism. The lack of tourism greatly impacted the revenue streams of businesses, such as Employer. Due to the lack of tourism and revenue, as well as the public health emergency prompted by COVID-19, Employer had to reduce hours, furlough staff, and close the business. While Appellant last worked in March 23, 2020, Appellant testified that she received her full and customary pay until April 6, 2020. Accordingly, Appellant's employment was directly affected by a COVID-19 reason, indicated above, starting April 6, 2020.

2. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition she fits into. Further, in support of her general position that she qualifies,

Appellant simply provided her EAD card. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents.[12]

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. First, the SAVE results indicate that Appellant is an EAD, Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. Category C09 is not considered a qualified alien. Second, Appellant provides no other evidence to contradict or rebut the SAVE results. Third, while Appellant may have submitted an application for permanent residence, said applications have not been approved. Therefore, Appellant was not a qualified alien at the time of the weeks claimed.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 24, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **30th** day of September, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

[12] As stated on the record, Appellant submitted a copy of a shrunken, blurry, illegible copy of what appears to be a USCIS Notice of Action. Appellant could not provide a legible copy to which the undersigned and opposing party could review and test for authenticity, trustworthiness, or relevance. Additionally, Appellant made no argument as to what that document purports to say. Ultimately, Appellant did not request to admit this document into the record.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0010**
Zenaida A. Marcelo	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 1, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Zenaida A. Marcelo ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker, Denis Cabrera. There were no other witnesses who provided testimony during the hearing.[1]

Exhibits:

1. Exhibit 1: Department's SAVE Results
2. Exhibit 2: Appellant's I-797A Notice of Action

For the reasons stated below, the Department's Determination dated August 25, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of June 14, 2020 to December 26, 2020.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits

[1] Appellant's husband, Bernardine Marcelo, was present on the line but did not provide testimony.

called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance with applicable law.[4] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI as agents of US Department of Labor. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its determination on August 25, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits effective June 14, 2020 to December 26, 2020. Appellant filed the present appeal on September 16, 2020. Appellant is appealing the denial for the entire period. The issue(s) on appeal is: (1) whether the appeal is timely filed; and (2) whether Appellant is a qualified alien eligible for PUA.[5]

IV. FINDINGS OF FACT

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

1. Prior to the pandemic, Appellant was employed as a second grade teacher at Green Meadow School ("Employer") located in Chalan Kiya, Saipan. Appellant regularly worked 20 hours every two weeks at a rate of $7.70 per hour.

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[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
[5] During the Administrative Hearing, Appellant testified to potential overpayment issues. Since that issue was not included in the Notice of Hearing, the undersigned declines to make any findings or conclusions with respect to overpayments. However, this matter shall be referred to the Benefit Payment Control Unit for further investigation.

2. From the second week of March to May 2020, Employer was closed. However, Appellant was able to telework or work from home.
3. Despite COVID-19, Appellant worked the same number of hours. Further, when the school reopened on August 6, 2020, Appellant's number of hours increased to 30 hours a week.
4. Appellant holds an H1B Visa, valid from April 1, 2020 to March 31, 2023.[6] After Appellant's H1 Visa was approved, Appellant's pay increased to $15.45 per hour.
5. The Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the immigration status of PUA applicants so only those entitled to benefits receive them.
6. The SAVE results indicate that Appellant is a non-national of the U.S. who is admitted for a specific reason and for a limited period of time. The results further indicate that Appellant is temporarily allowed to work. [7]
7. On September 4, 2020, Appellant filed her appeal on Guam. On September 7, 2020, Guam instructed Appellant that she needed to file her appeal in Saipan. Appellant did not immediately file her appeal because she was taking online classes, five days a week from 8:00 am to 2:30pm.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. **For good cause shown, the filing appeal shall be extended to thirty days. Appellant's appeal is timely.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty days by a showing of good cause.[8] 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.[9]

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[6] Exhibit 2.
[7] Exhibit 1.
[8] HI. Rev. Statute § 383-38(a).
[9] HAR § 12-5-81(j).

Here, Appellant received the determination on August 25, 2020. Appellant mistakenly filed her appeal in Guam on September 4, 2020. This mistake was due to a technical error by the Department's online portal which generated a determination using Guam's Department of Labor letterhead and instructions. On September 7, 2020, Appellant was instructed that she had to file her appeal with the CNMI Department of Labor, Administrative Hearing Office. Appellant did not file her appeal for another 9 days, September 16, 2020. Appellant explained that she did not file because she was taking an online class, which meets 8:00 a.m. to 2:30 p.m., daily. The daily classes are not a reasonable justification because the Administrative Hearing Office is open from 8:00 a.m. to 4:00 p.m., Monday to Friday. Additionally, instructions are posted on the CNMI Department of Labor website and email filing was an available option. However, in consideration of the technical errors and inconsistent filing instructions, the undersigned finds good cause t extend the filing period to 30 days. Accordingly, Appellant's filing is timely.

2. Appellant's employment was not affected as a direct result of COVID-19 because she had the ability to telework their customary hours with pay.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[10] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;

[10] This is not at issue in this case.

(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Generally, PUA is not available to an individual who has the ability to telework for their customary work hours with pay. Based on the evidence and testimony provided, it is clear that Appellant's employment was not affected as a direct result of COVID-19. While Appellant testified that her employer closed, Appellant was offered telework for the same number of hours. Further, when the school reopened in August 6, 2020—Appellant worked even more hours compared to her employment prior to COVID-19. Since Appellant was given the opportunity to telework and the number of work hours and pay were unchanged, Appellant's employment was not directly affected by a COVID-19 reason, indicated above.

3. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits[11] available to citizens of the United States, District of Columbia, Puerto Rico, U.S. Virgin Islands, the CNMI, Guam, Republic of Palau, the Federated States of Micronesia, American Samoa, the Republic of the Marshall Islands, and qualified aliens who reside and work in the CNMI. As a condition of eligibility for any public benefit, any qualified alien must meet the statutory definition during the work weeks that unemployment benefits are claimed. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;

[11] *See* 8 USC § 1611(c).

4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition she fits into. Further, in support of her general position that she qualifies, Appellant simply provided an I-797A Approval Notice, which indicates that she was approved for an H-1B visa. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents. When asked about each provision of the qualified alien definition, Appellant admits that she does not meet the definition. Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of June 14, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **9th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0011**
Yangsong Z. Jackson	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 1, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Yangsong Z. Jackson ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker, Denis Cabrera. Interpreter Brandon Doggett was also present.

Appellant's Witnesses:

1. Gregory Jackson (Husband); and
2. Tony M. Sablan (Document Handler for Appellant's USCIS petitions).

Exhibits:

1. Exhibit 1: Appellant's Employment Authorization Card; and
2. Department's Save Results.

For the reasons stated below, the Department's Determination dated September 15, 2020 is **MODIFIED**.[1] Claimant is not eligible for benefits for the period of February 9, 2020 to December 26, 2020.

[1] As further discussed below, the undersigned finds the determination denying benefits is proper. However, the Determination is modified to include an end date of the disqualification period.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[4] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 15, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits effective February 9, 2020. Appellant filed the present appeal on September 17, 2020. Appellant is appealing the denial for the entire period, effective February 9, 2020. The issue(s) on appeal is whether Appellant is a qualified alien eligible for PUA.

IV. FINDINGS OF FACT

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

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[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1. Prior to the pandemic, Appellant was employed as a Table Supervisor at Best Sunshine Casino ("Employer") located in Garapan, Saipan. Appellant regularly worked 40 hours per week at a rate of $17 per hour.
2. On March 17, 2020, Employer temporarily closed its doors in response to the CNMI Governor's executive directive regarding the public health emergency. Due to the economic impact of COVID-19 and lack of customers, Employer did not reopen for business.
3. Appellant has not been recalled into work or otherwise returned to the workforce since March 17, 2020.
4. Appellant applied for permanent residency in June 26, 2017. Her application for permanent residency is still pending with the Department of Homeland Security, US Citizenship and Immigration Services ("USCIS").
5. In light of the pending application, Appellant was granted employment authorization. Appellant possessed a valid Employment Authorization Document ("EAD")[5] card with the following credentials:
    a. Date of Birth: September 5, 1975
    b. USCIS #: 200-865-467
    c. Category: C09
    d. Card #: MSC1990114200
    e. Valid from January 9, 2020 to January 8, 2021.[6]
6. The Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the immigration status of PUA applicants so only those entitled to benefits receive them.
7. The SAVE results indicate that Appellant is a non-national of the U.S. who is admitted for a specific reason and for a limited period of time. The results further indicate that Appellant is temporarily allowed to work. The results confirm that Appellant's employment authorization is under Category C09.[7]

[5] An EAD is a work permit that allows noncitizens to work in the United States.
[6] Exhibit 1.
[7] Exhibit 2.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[8] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;
(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

[8] This is not at issue in this case.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Notably, Appellant failed to show how her employment was affected back to February 9, 2020. However, on March 17, 2020, Employer closed the business and has yet to reopen. Due to COVID-19, there was an immediate halt in tourism. The lack of tourism greatly impacted the revenue streams of businesses, such as Employer. Due to the lack of tourism and revenue, as well as the public health emergency prompted by COVID-19, Employer had to close the business. During this time, employees like Appellant received zero work and zero pay. Accordingly, Appellant's employment was directly affected by a COVID-19 reason, indicated above.

2. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition she fits into. Further, in support of her general position that she qualifies, Appellant simply provided her EAD card. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents. Appellant simply argued that she is legally present in the CNMI, has been paying local taxes, and authorized to work.

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. First, the SAVE results indicate that Appellant is an EAD, Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status.

Category C09 is not considered a qualified alien. Second, Appellant provides no other evidence to contradict or rebut the SAVE results. In fact, testimony from Appellant and Witness Sablan indicate that Appellant only has a pending application for permanent residency. That application has not been approved or granted. There are no other applications that have been granted. Accordingly, until approval or other showing, Appellant is not a qualified alien. More importantly, Appellant was not a qualified alien at the time of the weeks she is claiming PUA benefits.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 9, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **9th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:	**Labor Case No. 20-011**
Evangeline S. Dela Cruz,	
Complainant,	**DEFAULT JUDGMENT**
v.	
Marianas Health Services, Inc.,	
Respondent.	

This matter came for an online Administrative Hearing on October 7, 2020 at 9:00 a.m. at the Administrative Hearing Office. Complainant Evangeline S. Dela Cruz ("Complainant") failed to appear.[1] Respondent Marianas Health Services, Inc. ("Respondent") was present and represented by Director of Operations Maria Ana Castro and Finance Director Arlene Lizama. The Department's Enforcement, Monitoring, and Compliance Section ("Enforcement") was also present and represented by investigator Jerrick Cruz.

On the evening of October 5, 2020, Complainant filed an untimely request to continue the Administrative Hearing because she is in the Philippines and did not have internet access. While undersigned recognizes that Complainant was required to depart the CNMI because her CW-1 permit expired, it is unclear whether Complainant will return to the CNMI. Notably, the Administrative Hearing Office only has jurisdiction within the CNMI and cannot conduct hearings on foreign land. A continuance would not cure these deficiencies. Further, a continuance would create an undue burden and prejudice Respondent in having to defend against an absent or unavailable Complainant. Accordingly, Complainant's request for a continuance is **DENIED**.

Considering Complainant's absence, Respondent moved for Default Judgment. Pursuant to NMIAC § 80-20.1-480(l), "[e]xcept for good cause shown, failure of a party to appear at a hearing after timely being served notice to appear shall be deemed to constitute a waiver of any

[1] Upon review of the record, the notice of hearing was issued and served to the parties on September 1, 2020. Accordingly, the undersigned finds that notice and service was proper.

right to pursue or contest the allegations in the complaint." Here, notice and service of process was sufficient. Further, the undersigned finds Complainant's departure from the CNMI as a waiver in pursuing the allegations in the Complaint. Accordingly, **DEFAULT JUDGMENT** is hereby entered in favor of Respondent.

So ordered this **7th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0012**
Marcelo V. Masilungan	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 6, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Marcelo V. Masilungan ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker, Dennis Cabrera. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Appellant's Letter w/ Copy of E2 Visa and EAD Card, dated September 3, 2020
2. Exhibit 2: Department's Determination, dated September 15, 2020
3. Exhibit 3: Department's Save Results.

For the reasons stated below, the Department's Determination dated September 15, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 15, 2020 to December 26, 2020.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits

called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[3] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 15, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits effective March 15, 2020 to December 26, 2020. Appellant filed the present appeal on September 21, 2020. Appellant is appealing the denial for March 15, 2020 to April 30, 2020. The issue(s) on appeal is whether Appellant is a qualified alien eligible for PUA.

IV. FINDINGS OF FACT

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

1. Prior to the pandemic, Appellant was employed as the President of White Coconut Computer Services ("Employer") located in Garapan, Saipan. Appellant regularly worked 40 hours per week at a rate of $22.50 per hour.
2. On or around mid-March, Employer temporarily closed its doors in response to the CNMI Governor's executive directive regarding the public health emergency. During this time

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

the business was only open half day. The business reopened for regular business hours on May 1, 2020. The business has been open full day to the date of this hearing and reports an increase in revenue.

3. Appellant was authorized to work in the CNMI pursuant to an E2 Investor Visa valid from May 15, 2017 to May 15, 2020.[4]
4. On or around September 2019, Appellant applied for permanent residency. To date, the petition for permanent residency is still pending.
5. In light of the pending application, Appellant was granted employment authorization. Appellant possessed a valid Employment Authorization Document ("EAD")[5] card with the following credentials:
    a. Date of Birth: October 30, 1973
    b. USCIS #: 087-956-286
    c. Category: C09
    d. Card #: MSC1991700769
    e. Valid from November 12, 2019 to November 11, 2020.[6]
6. The Department entered Appellant's EAD Card information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division.[7] This database is used to determine the alien status of PUA applicants so only those entitled to benefits receive them.
7. The SAVE results indicate that Appellant is a non-national of the U.S. who is admitted for a specific reason and for a limited period of time. The results further indicate that Appellant is temporarily allowed to work. The results confirm that Appellant's employment authorization is under Category C09.[8]

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

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[4] Exhibit 1.
[5] An EAD is a work permit that allows noncitizens to work in the United States.
[6] Exhibit 1.
[7] The Department did not utilize information from the Appellant's E2 Investor Visa because it was not provided to the Department with his PUA application. Regardless, the E2 Investor Visa would not have changed the SAVE Results.
[8] Exhibit 3.

1. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[9] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;
(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. On or around mid-March 2020, Employer closed the business half day pursuant to the Governor's Executive Orders regarding the COVID-19 public health emergency. The business returned to full days on May 1, 2020. Accordingly, Appellant's

[9] This is not at issue in this case.

employment was directly affected by a COVID-19 reason, indicated above from the time of closure to reopening on May 1, 2020.

2. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition he fits into. Appellant simply provided a copy of his E2 investor visa and EAD card. Further, Appellant simply questions why EAD C11 can qualify while EAD C09 does not. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents. When questioned with regards to each provision of the qualified alien statute, as listed above, Appellant stated he was not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one year, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. First, the SAVE results indicate that Appellant is an EAD, Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. While the undersigned recognizes that Appellant has a pending application or petition with USCIS, said petition has not been approved or granted. Second, the undersigned rejects Appellant's arguments that EADs with the category C09 and C11 are virtually the same and should be treated as such.

Appellant misunderstands the applicable law. As indicated above, C09 references an individual who is authorized to work pending an adjustment in their status. Alternatively, C11 refers to an alien paroled into the United States in the public interest or temporarily for emergency reasons. Parolees who have been in the U.S. for at least one year may be considered qualified alien, while those pending an adjustment in their status are not. Third, the undersigned rejects Appellant's arguments that E2 Investor Visas meets the qualified alien definition. As stated above, the qualified alien definition is very specific. While the E2 investor visa granted Appellant certain rights and privileges to live and work in the CNMI, the E2 investor visa does not grant rights to federal public benefits, such as PUA. In conclusion, Appellant is not a qualified alien. More importantly, Appellant was not a qualified alien at the time of the weeks he is claiming PUA benefits.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 9, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **9th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0013**
Gerardo D. Agustin	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 6, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Gerardo D. Agustin ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker, Dennis Cabrera. Interpreter Rochelle Tomokane assisted with the proceedings. There were no other witnesses who gave testimony at the hearing.[1]

Exhibits:

1. Exhibit 1: Copy of Appellant's Employment Authorization Card, valid between March 4, 2020 to March 3, 2020
2. Exhibit 2: Department's Save Results

For the reasons stated below, the Department's Determination dated September 15, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 22, 2020 to December 26, 2020.

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[1] Appellant's friend, Maria Theresa Cruz, was present on the line but did not provide testimony.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[4] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 15, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits effective March 15, 220 to December 26, 2020. Appellant filed the present appeal on September 21, 2020. Appellant is appealing the denial for March 15, 2020 to April 30, 2020. The issue(s) on appeal is whether Appellant is a qualified alien eligible for PUA.

IV. FINDINGS OF FACT

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

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[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1. Prior to the pandemic, Appellant was employed as an Assistant Cook at Kinpachi Restaurant ("Employer") located in Garapan, Saipan. Appellant regularly worked 34-40 hours biweekly at a rate of $7.51 per hour.
2. Effective March 24, 2020, Employer temporarily closed its doors in response to the CNMI Governor's executive directive regarding the public health emergency. Appellant returned to work around the last week of July 2020, with reduced hours.
3. On August 7, 2020, Appellant stopped working at Employer at started another job with higher pay and more hours.
4. Despite having another job, Appellant continued to apply for benefits and is appealing the entire denial period from March 22, 2020 to December 26, 2020.[5]
5. On or around December 27 2019, Appellant applied for permanent residency. To date, the petition for permanent residency is still pending.
6. In light of the pending application, Appellant was granted employment authorization. Appellant possessed a valid Employment Authorization Document ("EAD")[6] card with the following credentials:
    a. Date of Birth: February 8, 1969
    b. USCIS #: 200-160-269
    c. Category: C09
    d. Card #: MSC2090500787
    e. Valid from March 4, 2020 to March 3, 2021.[7]
7. On or around September 17, 2020, the Department entered Appellant's EAD Card information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division.[8] This database is used to determine the alien status of PUA applicants so only those entitled to benefits receive them.

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[5] The Department shall report this potential fraud issue to the appropriate federal agency.
[6] An EAD is a work permit that allows noncitizens to work in the United States.
[7] Exhibit 1.
[8] The Department did not utilize information from the Appellant's E2 Investor Visa because it was not provided to the Department with his PUA application. Regardless, the E2 Investor Visa would not have changed the SAVE Results.

8. The SAVE results indicate that Appellant is a non-national of the U.S. who is temporarily authorized to work in the U.S. The results confirm that Appellant's employment authorization is under Category C09.[9]

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[10] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;
(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

[9] Exhibit 3.
[10] This is not at issue in this case.

(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. At the end of March 2020, Employer closed the business half day pursuant to the Governor's Executive Orders regarding the COVID-19 public health emergency. Further, when the business reopened Appellant was given reduced hours due to lack of customers from the halt in tourism. Accordingly, Appellant's employment was directly affected by a COVID-19 reason from March 24, 2020 to August 7, 2020—when Appellant returned to full time work with another employer.

2. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition he fits into. Appellant simply provided a copy of his EAD card and indicated he has applied for permanent residency. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents. When questioned with regards to each provision of the qualified alien statute, as listed above, Appellant stated he was not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one year, an alien pending

deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. First, the SAVE results indicate that Appellant is an EAD, Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. While the undersigned recognizes that Appellant has a pending application or petition with USCIS, said petition has not been approved or granted. Pending applications are insufficient to establish a qualified alien status. In conclusion, Appellant was not a qualified alien at the time of the weeks he is claiming PUA benefits and is not currently a qualified alien.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 22, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **13th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:	**Labor Case No. 20-014**
Anowar Hossain, Complainant, v. Wilfredo D. Percil dba WRP Island Servitiks, Respondent.	**SUA SPONTE ORDER OF DISMISSAL**

On May 26, 2020, Complainant initiated a labor case against Respondent for unpaid wages and "tax no pay, CW1 processing problem."[1] On July 22, 2020,[2] after Respondent's failure to submit an answer or response to the complaint, the matter was referred Enforcement for investigation to clarify the Complainant's allegations and determine whether any agency violations exist. Subsequently, Enforcement conducted several fact-finding interviews. On September 25, 2020, Enforcement filed a written determination recommending dismissal.

Pursuant to 3 CMC § 4947(a), "the hearing office 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." Further, "[i]f the complaint is not timely filed, the hearing office shall dismiss the complaint with prejudice." NMIAC § 80-20.1-465(e).

Here, both parties had an opportunity to be heard during the investigation phase. Additionally, the parties were provided notice when the determination recommending of dismissal was served to the parties. The parties have not filed any additional documents or arguments to rebut Enforcement's determination. Further, after careful review of the determination, there are no claims within the Administrative Hearing Office jurisdiction[3] that falls

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[1] Complainant at 1.
[2] There were substantial delays in referring this matter due to the three month closure of government offices during the declared COVID-19 public health emergency.
[3] Notably, "tax no pay, CW1 processing problem" is not within the Administrative Hearing Office's jurisdiction. *See* 3 CMC § 4942.

within the six months statute of limitations.[4] Ultimately, the complaint is devoid of merit and cannot succeed. Accordingly, pursuant to 3 CMC § 4947(a) and NMIAC § 80-20.1-465(e), the complaint is hereby **DISMISSED**, with prejudice.

So ordered this **19th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

[4] 3 CMC § 4962.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of: Jayda M. Mendoza Appellant, v. CNMI Department of Labor, Division of Employment Services-PUA, Appellee.	**PUA Case No. 20-0014** **ADMINISTRATIVE ORDER**

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 8, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Jayda M. Mendoza ("Appellant") was present and represented by Attorney Anthony Aguon. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and PUA Supervisor Sharon Palacios. There were no other witnesses who gave testimony at the hearing.[1]

Exhibits:

1. Exhibit 1: Email from Pacific Islands Club Saipan, dated September 18, 2020.[2]

For the reasons stated below, the Department's Determination dated September 8, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 8, 2020 to December 26, 2020.

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[1] Appellant's mother, Clarice Mendoza was also present but did not provide testimony. Appellee also brought additional support staff, Dennis Cabrera and Brenda Lynn Sablan.

[2] Counsel for Appellant objected to this exhibit on the basis of hearsay. Counsel's objection was overruled because Administrative Hearings for PUA Appeals "shall not be bound by common law or statutory rules of evidence or by technical rules of procedure." HI Rev. Statutes §§ 389-399; *Compare* NMIAC § 80-20.1-480(e) ("Strict adherence to formal rules of evidence shall not be necessary. . . ."). The undersigned found the email communication relevant, reliable, and uncontradicted. For that reason, the exhibit was admitted into evidence.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[3] and Federal Pandemic Unemployment Compensation ("FPUC").[4] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[5] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its disqualifying determination on September 1, 2020. The Department's determination found that Appellant failed to provide sufficient proof of employment at the time the Pandemic began or were to start work but could not because of the pandemic. The disqualification is effective February 23, 2020 to December 26, 2020. Additionally, on September 10, 2020, the Department issued Appellant a notice of overpayment in the total amount of $18,825. On September 31, 2020, Appellant filed a request to appeal the above-mentioned disqualifying determination and notice of overpayment. As stated in the Notice of Hearing issued September 22, 2020, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is eligible for PUA; and (3) whether an overpayment occurred and funds should be returned.

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[3] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[4] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[5] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

IV. FINDINGS OF FACT

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

1. Appellant did not have a recent attachment to the CNMI work force prior to the pandemic.
2. From approximately 2016 to September 2019, Appellant was employed as a Club Mate at Pacific Islands Club, Saipan ("PIC") located in Afetnas, Saipan. At the end of September 2019, Appellant resigned to move to San Diego, California.
3. Appellant returned to the CNMI on or around November 2019. After returning to the CNMI, Appellant began looking for employment.
4. Appellant inquired about work with her former supervisor and SEA Director at PIC, Dennis Tababa. Tababa made statements like, "whenever you want back in – let me know."
5. Appellant's supervisor advised her to submit an application to PIC. On November 12, 2020, Appellant submitted an application and was granted an interview.[6] Appellant declined the invitation to interview on November 18, 2019 because she decided to go to another interview with the Public School System ("PSS"). Appellant was not offered the position with PSS.
6. When Appellant returned to PIC to inquire whether the position was filled, Tababa advised her to reopen her application with the Human Resources office. Appellant never reopened her application because she did not consider PIC as a first choice.
7. Appellant continued to look for other work but was unsuccessful. Appellant applied to First Hawaiian Bank ("FHB") but was not granted an interview.
8. While Appellant believed that Tababa had authority to make hiring decisions at PIC, Tababa never actually offered Appellant a job or scheduled her to begin work.
9. Appellant received a total of $18,825 in unemployment assistance. Specifically, Appellant received $8,625 in PUA benefits and $10,200 in FPUC benefits for the work weeks ending February 29, 2020 through August 15, 2020. Due to the backlog in processing, Appellant received a lump sum amount of approximately 16,000 on August 4, 2020 and the remaining amount sometime thereafter by direct deposit.

[6] Exhibit 1.

10. Appellant used a portion of this money to renovate her house, buy supplies for an incoming newborn, and pay bills. Appellant has approximately $5,000 remaining.
11. On August 20, 2020, the Department received an anonymous tip alleging Appellant's potential fraud and overpayment. As a result, the Department's PUA Benefit Payment Control Unit conducted a targeted audit of Appellant's PUA claim.
12. On September 1, 2020, the Department issued a determination disqualifying Appellant from PUA benefits for failure to submit necessary documentation to support her application.
13. On September 10, 2020, the Department issued a Notice of Overpayment for previously received PUA benefits of $18, 825.
14. On September 12, 2020, Appellant filed her appeal on Guam. On September 18, 2020, Guam instructed Appellant that she needed to file her appeal in Saipan. That same day, Appellant emailed the wrong Appeal form to the Administrative Hearing Office. On September 21, 2020, Appellant filed the correct Appeal form.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. **For good cause shown, the filing appeal shall be extended to thirty days. Appellant's appeal is timely.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty days by a showing of good cause.[7] 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.[8]

Here, Appellant received the disqualifying determination on September 1, 2020. Additionally, Appellant received a Notice of Overpayment on September 10, 2020. Appellant mistakenly filed her appeal in Guam on September 12, 2020. This mistake was due to a technical error by the Department's online portal which generated a determination using Guam's Department of Labor letterhead and instructions. On September 18, 2020, Appellant was instructed that she had to file her appeal with the CNMI Department of Labor, Administrative Hearing Office. That same day,

[7] HI. Rev. Statute § 383-38(a).
[8] HAR § 12-5-81(j).

Appellant emailed the Department's Administrative Hearing Office but submitted the wrong appeal form. On September 21, 2020, Appellant filed the correct appeal form at the correct office.

Notably, Appellant did not take action with the respect to the disqualifying determination for eleven (11) days—she received her notice on September 1, 2020 but emailed Guam on September 12, 2020. Additionally, Appellant did not take action with respect to the Notice of Overpayment for eleven (11) days—she received her notice on September 10, 2020 but filed an appeal on September 21, 2020. However, in consideration of the technical errors and inconsistent filing instructions, the undersigned finds good cause to extend the filing period to 30 days from the day Appellant receives notice. Here, Appellant filed her appeal on September 21, 2020, within the thirty (30) day extended timeline. Accordingly, Appellant's filing is timely.

2. The Department's disqualification for Appellant's failure to report or provide supporting documents was proper.

Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136), the terms and conditions of the law of the applicable jurisdiction in which an individual would be paid PUA benefits, applies to the processing of the PUA claims. This includes determinations related to failure to report as directed provisions. For the PUA Program in the CNMI, the applicable provisions of the State of Hawaii will apply to adjudicating a claimant's failure to report as directed. Under Haw. Code R. § 12-5-81(i-j), a claimant is required to respond or complete an action as directed by the agency or Department. This includes reporting to appointments scheduled by the agency and/or requests to provide information or documents. If a claimant fails to respond as directed, he or she is not eligible for benefits in the affected week, unless good cause is shown for the failure. The standard of "good cause" is generally considered to include exigent circumstances or those beyond the control of the claimant such as illness, and/or other reasons which would prevent a reasonable person from complying as directed.[9]

In this case, Appellant was scheduled for an interview with the Benefits Payment Control Unit ("BPC") after someone submitted an anonymous tip of potentially fraudulent activity. Appellant was unable to attend the first scheduled interview and was rescheduled for a later date. During that interview, the PUA Coordinators at BPC asked Appellant for more information on how her employment was affected by COVID-19 and requested for additional documents to support her claim. Appellant had no additional documents to provide regarding an alleged verbal offer of

[9] Haw. Code R. § 12-5-81(j).

employment and was subsequently disqualified for payments. Since there were no supporting documents submitted, Appellant failed to meet the reporting requirements and disqualification under Haw. Code R. § 12-5-81(i-j) was warranted.

3. Appellant's employment was not affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[10] Second, the claimant must attest[11] that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unavailable for work as a direct result[12] of a COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;
(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

[10] This is not at issue in this case.
[11] The PUA program relies on self-certifications and self-reporting under penalty of perjury.
[12] 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.

Here, Appellant submitted a claim for PUA self-certifying that she relocated back to the CNMI and was unable to find employment due to COVID-19. Appellant's inability to find suitable work is not a COVID-19 reason listed above. When questioned under oath as to each of the qualifying COVID-19 reasons, Appellant responded in the negative. As further discussed below, Appellant's employment was not affected as a direct result of a COVID-19 reasons.

First, Appellant did not have recent attachment to the workforce. Appellant worked as a club mate at PIC until September 2019. Unrelated and prior to the COVID-19 public health emergency, Appellant resigned from PIC on or around September 2019 because she was relocating to San Diego, California. Appellant returned to the CNMI on or around November 2019. At that time, Appellant looked for work but was unsuccessful.

Second, Appellant was never scheduled to commence employment at PIC, PSS or FHB. Appellant returned to the CNMI on or around November 2019. Upon return, Appellant applied to a number of jobs. Appellant's former supervisor at PIC advised her to submit an application and said, "whenever you want back in, let me know." After submitting an application to PIC, Appellant was granted an interview. Appellant declined the invitation to interview at PIC in order to pursue another interview with PSS. Ultimately, Appellant did not receive job offers from PSS or FHB. When Appellant returned to PIC to follow up on the position, her former supervisor advised her to reopen her application. Since PIC was not her first option, Appellant chose not to reopen her application. During the investigation, BPC verified employment records with PIC to corroborate Appellant's testimony. PIC has no record of Appellant reopening her application. Logically, a person cannot "be scheduled to commence employment" if they were never offered a job.

Third, statements by the Appellant's supervisor did not amount to a bonafide job offer. Here, Appellant mistakes the statement, "whenever you want back in, let me know" as a job offer. However, this statement fails to convey necessary details like duties, starting pay, hours of work, or schedule to commence. Further, taken in a totality of circumstances, the statement could not reasonably convey a job offer when her supervisor subsequently advised her to apply for a job and reopen her application.

In conclusion, Appellant's employment was not affected as a direct result of COVID-19.

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4. An overpayment occurred and Appellant is required to pay the amount back.

Notably, PUA benefits were designed to be a critical lifeline for qualifying individuals facing a financial crisis amidst a pandemic. PUA is not an excuse to refuse suitable work. PUA is not a license to make irresponsible purchases. PUA is not free or unencumbered money. Issues of fraud[13] and overpayments are of great consequence that jeopardizes the integrity of the program and availability of funds for eligible or qualified individuals. For those reasons, waivers are granted under very specific situations.

PUA and FPUC overpayments are treated differently. The CNMI has no authority to waive repayment of PUA overpayments. The Appellant must pay back this amount. In cases of FPUC overpayments, the CNMI may waive repayment if is the payment was made without fault on the part of the individual and such repayment would be contrary to equity and good conscience.[14] Based on federal guidance, "contrary to equity and good conscience" is tantamount to placing an individual below the poverty line and taking away basic necessities to live.

Considering that Appellant's employment was not affected as a direct result of COVID-19, the $8,625 in PUA benefits and $10,200 in FPUC benefits received by Appellant is an overpayment.[15] During the Administrative Hearing, counsel for Appellant requested a waiver or reasonable payment plan.

The undersigned finds that a waiver of FPUC overpayments is not appropriate. Here, undersigned recognizes that Appellant did not necessarily lie on her application when she listed her COVID-19 reason as "relocated back on island and wasn't able to find employment due to COVID-19." However, Appellant submitted weekly certifications that indicated she was scheduled to commence work and argued she had a legitimate job offer when she clearly did not. Further, Appellant must be held accountable for the inaccurate, incomplete, or uninformed answers she submitted under penalty of perjury. The Department testified to publishing a benefit rights handbook—which explained the program operations and eligibility requirements. The Department testified to conducting a number of online community outreaches, which explained the application process and questions. The Department also testified that this program relies on self-certification and self-reporting under penalty of perjury—which advises Appellant to read

[13] This office has no jurisdiction to make findings or conclusions as to federal offenses, like fraud. Issues of fraud are escalated to the US Department of Labor, Office of the Inspector General and prosecuted in federal court.
[14] Section 2104(f)(2) of the CARES Act of 2020, Public Law 116-136; *See* UIPL 16-20.
[15] *See* Notice of Overpayment, issued September 10, 2020.

the benefit rights handbooks so they can make informed answers. Ultimately, the Appellant cannot feign ignorance, render self-certifications meaningless, or shift the burden on the Department to ensure she is providing complete and accurate information. For these reasons, the undersigned must assign some fault on the Appellant. Accordingly, Appellant is not entitled to a waiver.

The undersigned further finds that repayment would not be contrary to equity and good conscience. Based on the testimony provided, Appellant is able to immediately pay back the remaining $5,000 and amenable to a biweekly repayment plan of $200. The repayment plan is reasonable for the following reasons. First, Appellant has a very small amount of monthly bills or expenses. Specifically, Appellant contributes approximately $200 a month on utilities, which is shared by two other roommates, in a home that is rent and mortgage free. Her contribution for utilities has been irregular and this second home is not the Appellant's only available living option. Further, Appellant has already paid off her phone and car. Appellant has no other expenses. Second, Appellant is supported by family and the father of her incoming child. Specifically, Appellant indicates that her parents provide cash and her significant other provides for food. Appellant further indicated that her significant other receives rightfully PUA assistance and helps support her. Third, Appellant readily avails of other public assistance for necessities like medical and food. Accordingly, requiring Appellant to return the overpayment is not contrary to equity and good conscience.

VI. CONCLUSION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**;
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 23, 2020 to December 26, 2020;
3. The CNMI Department of Labor's Notice of Overpayment is **AFFIRMED**;
4. Appellant shall promptly submit to a repayment plan, with the Benefit Payment Control Unit. Appellant shall repay the remaining $5,000 in her possession on or before October 23, 2020. Additionally, Appellant shall pay monthly installments of, at least, $200.00 by the first of each month, beginning November 1, 2020, until the entire overpayment is completely repaid;
5. The CNMI Department of Labor Benefit Payment Control Unit shall notify the CNMI Department of Finance of this overpayment in federal funds. Where possible, BPC shall

collect any of Appellant's tax rebates, tax refunds, stimulus checks, or other federal funds to satisfy this debt; and

6. The CNMI Department of Labor Benefit Payment Control Unit shall refer this matter to U.S. Department of Labor, Office of the Inspector General to allow investigation and potential prosecution of fraud.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **16th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:	**Labor Case No. 20-015**
Mohammad Naymur Rahman, Complainant, v. Wilfredo D. Percil dba WRP Island Servitiks, Respondent.	**SUA SPONTE ORDER OF DISMISSAL**

On May 26, 2020, Complainant initiated a labor case against Respondent for unpaid wages and "other".[1] On July 22, 2020,[2] after Respondent's failure to submit an answer or response to the complaint, the matter was referred Enforcement for investigation to clarify the Complainant's allegations and determine whether any agency violations exist. Subsequently, Enforcement conducted several fact-finding interviews. On September 25, 2020, Enforcement filed a written determination recommending dismissal.

Pursuant to 3 CMC § 4947(a), "the hearing office 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." Further, "[i]f the complaint is not timely filed, the hearing office shall dismiss the complaint with prejudice." NMIAC § 80-20.1-465(e).

Here, both parties had an opportunity to be heard during the investigation phase. Additionally, the parties were provided notice when the determination recommending of dismissal was served to the parties. The parties have not filed any additional documents or arguments to rebut Enforcement's determination. Further, after careful review of the determination, there are no claims within the Administrative Hearing Office jurisdiction[3] that falls

[1] The complaint did not specify the basis of "other." Complainant at 1.
[2] There were substantial delays in referring this matter due to the three month closure of government offices during the declared COVID-19 public health emergency.
[3] Notably, "tax no pay, CW1 processing problem" is not within the Administrative Hearing Office's jurisdiction. *See* 3 CMC § 4942.

within the six months statute of limitations.[4] Ultimately, the complaint is devoid of merit and cannot succeed. Accordingly, pursuant to 3 CMC § 4947(a) and NMIAC § 80-20.1-465(e), the complaint is hereby **DISMISSED**, with prejudice.

So ordered this **19th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

[4] 3 CMC § 4962.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0015**
Roselyn Q. Creencia	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 8, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Roselyn Q. Creencia ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker Dennis Cabrera. There were no other witnesses who gave testimony at the hearing.[1]

Exhibits:

1. Exhibit 1: Copy of Appellant's Employment Verification Letter, dated July 17, 2020
2. Exhibit 2: Copy of Appellant's Certification Letter
3. Exhibit 3: Copy of Appellant's Employment Authorization Card, valid between March 10, 2020 to March 9, 2021; and
4. Exhibit 4: Department's Save Results

For the reasons stated below, the Department's Determination dated September 8, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 8, 2020 to December 26, 2020.

[1] Appellant's husband, Alen Creencia, was present on the line but did not provide testimony.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[4] The CNMI Department of Labor is charged with the responsibility of administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 8, 2020. The Department's determination found the Appellant was not a qualified alien and denied benefits effective March 8, 2020 to December 26, 2020. Appellant filed the present appeal on September 23, 2020. The issues on appeal are: (1) whether the appeal is timely filed; and (2) whether Appellant is a qualified alien eligible for PUA.[5]

IV. FINDINGS OF FACT

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

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[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
[5] During the Administrative Hearing, Appellant testified as to potential overpayment issues and PUA funds previously received. Accordingly, this matter shall be referred to the Department's Benefit Payment Control Unit for further investigation.

1. Prior to the pandemic, Appellant was employed as an Accounting Specialist at Herman's Modern Bakery, Inc. ("Employer") located in Lower Dan Dan, Saipan. Appellant regularly worked 40 hours a week at a rate of $8.85 per hour.
2. Due to the economic impact of COVID-19, Employer implemented a reduction in operating hours to ensure financial stability of the company. This reduction in operating hours translated into a reduction in Appellant's working hours from March 9, 2020 to July 10, 2020.[6] From July 6, 2020 to August 2020, Appellant's hours were reduced to 30 hours per week.[7]
3. On or around November 2019, Appellant applied for permanent residency after marrying a U.S. Citizen. To date, the petition for permanent residency is still pending. Appellant followed up with USCIS on September 14, 2020 and was informed her application was still pending and remains under active examination.
4. In light of the pending application, Appellant was granted employment authorization. Appellant possessed a valid Employment Authorization Document ("EAD")[8] card with the following credentials:
    a. Date of Birth: March 17, 1992
    b. USCIS #: 219-393-630
    c. Category: C09
    d. Card #: MSC2090385133
    e. Valid from March 10, 2020 to March 9, 2021.[9]
5. On or around August 19, 2020, the Department entered Appellant's EAD Card information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the alien status of PUA applicants so only those entitled to benefits receive them.
6. The SAVE results indicate that Appellant is a non-national of the U.S. that has filed an application with USCIS for an extension, change, or adjustment of status or to obtain

[6] Exhibit 1.
[7] Exhibit 2.
[8] An EAD is a work permit that allows noncitizens to work in the United States.
[9] Exhibit 3.

employment authorization, but a decision has not yet been made. The results confirm that Appellant's employment authorization is under Category C09.[10]

7. On September 8, 2020, the Department issued a determination denying PUA benefits.
8. On September 11, 2020, Appellant filed her appeal on Guam. On September 12, 2020, Guam instructed Appellant that she needed to file her appeal in Saipan. That same day, Appellant emailed the Department's email dedicated general PUA information and inquiries, instead of the Administrative Hearing Office. After not receiving a response, Appellant personally visited the Administrative Hearing Office on September 23, 2020 to file an appeal.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. **For good cause shown, the filing appeal shall be extended to thirty days. Appellant's appeal is timely.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty days by a showing of good cause.[11] 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.[12]

Here, Appellant received the determination on September 8, 2020. Appellant mistakenly filed her appeal in Guam on September 11, 2020. This mistake was due to a technical error by the Department's online portal which generated a determination using Guam's Department of Labor letterhead and instructions. On September 12, 2020, Appellant was instructed that she had to file her appeal with the CNMI Department of Labor, Administrative Hearing Office. That same day, Appellant emailed the Department's email dedicated general PUA information and inquiries, instead of the Administrative Hearing Office. After not receiving a response, Appellant personally visited the Administrative Hearing Office on September 23, 2020 to file an appeal. Ultimately, the undersigned finds that Appellant acted reasonably and diligently in filing her appeal.

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[10] Exhibit 3.
[11] HI. Rev. Statute § 383-38(a).
[12] HAR § 12-5-81(j).

In consideration of the technical errors and inconsistent filing instructions, the undersigned finds good cause to extend the filing period to 30 days. This extension allowed appeals to be filed until October 8, 2020. Here, Appellant filed her appeal on September 23, 2020. Accordingly, Appellant's filing is timely.

2. Appellant's employment was affected as a direct result of COVID-19.

Pursuant to Section 2102 of the CARES Act of 2020, Public Law 116-136, there are a number of requirements to meet the eligibility standard of PUA. First, the claimant cannot be qualified for regular unemployment, extended benefits under state or federal law, or pandemic emergency unemployment compensation (PEUC).[13] Second, the claimant must show that he or she is able and available for work, as defined by Hawaii law, except they are unemployed, partially unemployed, or unable to work or unable for work due to at least one of the following COVID-19 reason identified in Section 2102 (a)(3)(A)(ii)(I) of the CARES Act:

(a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(b) A member of the individual's household has been diagnosed with COVID-19;
(c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(d) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another 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;
(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;
(f) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(g) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(h) The individual has become the breadwinner or major support for a household because the health of the household has died as a direct result of COVID-19;
(i) The individual has to quit his or her job as a direct result of COVID-19;
(j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(k) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job.

[13] This is not at issue in this case.

Based on the evidence and testimony provided, it is clear that Appellant's employment was affected as a direct result of COVID-19. Due to the threat of COVID-19 and pursuant to the Governor's Executive Orders, there were closures of government offices, restrictions on private businesses, and an overall reduction in revenue from the immediate halt in tourism. In the beginning of March, Employer reduced business hours and partially closed the establishment. Accordingly, Appellant's employment was directly affected by a COVID-19 reason from March 9, 2020 to August 2020.

3. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition she fits into. Appellant simply provided a copy of her EAD card and indicated she has applied for permanent residency. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents. When questioned with regards to each provision of the qualified alien statute, as listed above, Appellant stated she was not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one year, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. First, the SAVE results indicate that Appellant is an EAD, Category C09.

Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. While the undersigned recognizes that Appellant has a pending application or petition with USCIS, said petition has not been approved or granted. Pending applications are insufficient to establish a qualified alien status. In conclusion, Appellant was not a qualified alien at the time of the weeks she is claiming PUA benefits and is not currently a qualified alien.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 8, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **13th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of: Meng Kit Chow Appellant, v. CNMI Department of Labor, Division of Employment Services-PUA, Appellee.	**PUA Case No. 20-0016** **ADMINISTRATIVE ORDER**

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 13, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held online and telephonically.[1] Appellant Meng Kit Chow ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker Dennis Cabrera. There were no other witnesses who gave testimony at the hearing.[2]

Exhibits:

1. Exhibit 1: Copy of Appellant's I-797A Notice of Action
2. Exhibit 2: Copy of Department's SAVE Results

For the reasons stated below, the Department's Determination dated September 22, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of February 9, 2020 to December 26, 2020.

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[1] Due to Appellant's lack of phone or internet, Appellant was allowed to enter the Administrative Hearing Office. Appellant utilized the phone and online services in a private hearing room. In order to maintain precautionary health measures, Department employees did not enter the small room and appeared by telephone and online.
[2] Appellant was offered language services but denied the need for an interpreter or translator.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[3] and Federal Pandemic Unemployment Compensation ("FPUC").[4] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[5] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs. Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs for work weeks ending February 15, 2020 to October 10, 2020. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 22, 2020. The Department's determination found the Appellant was not a U.S. Citizen, non-national citizen, or qualified alien and denied benefits effective February 9, 2020 to December 26, 2020. Appellant filed the present appeal on September 24, 2020.[6] The issue on appeal is whether Appellant is a qualified alien eligible for PUA.[7]

IV. FINDINGS OF FACT

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

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[3] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[4] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[5] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
[6] The basis of Appeal is frivolous. Here, Appellant is only filing an appeal because His friends got PUA while he didn't. Appellants submits to evidence to show he is qualified or to rebut the determination.
[7] During the Administrative Hearing, Appellant testified as to potential overpayment issues and PUA funds previously received. Accordingly, this matter shall be referred to the Department's Benefit Payment Control Unit for further investigation.

1. Appellant entered the CNMI as a Commonwealth Only-Transitional Worker ("CW-1"). Appellant was authorized to work in the CNMI as a CW-1 from January 8, 2020 to September 30, 2020.[8]
2. On or around September 17, 2020, the Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the alien status of PUA applicants so only those entitled to benefits receive them. The SAVE results indicate that Appellant was a CW-1 until September 30, 2020.[9]
3. The SAVE results also indicate that Appellant has a pendng CW-1 petition that has yet to be granted. Appellant has no proof or supporting documentation to prove that he is currently authorized to be or to work in the CNMI.
4. The Department issued a Determination disqualifying Appellant for PUA because he is not a US Citizen, non-citizen national, or qualified alien. Appellant appealed the determination simply because he knows other CW-1's who received PUA.
5. Appellant is not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one year, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.
6. Appellant has no other documents to rebut the SAVE verification.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;

[8] Exhibit 1.
[9] Exhibit 2.

5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition he fits into. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents. When questioned with regards to each provision of the qualified alien statute, as listed above, Appellant stated he was not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one year, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty. When asked whether he was currently authorized to work in the CNMI, Appellant could not rebut the documents proving he is currently not authorized to work in the CNMI.[10] In conclusion, Appellant was not a qualified alien at the time of the weeks he is claiming PUA benefits and is not currently able and available to work.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 9, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **13th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

[10] *See* Exhibit 1 and 2.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0017**
Princess Grace C. Mulligan	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 13, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Princess Grace C. Mulligan ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker Dennis Cabrera. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant's EAD Card (Valid from 10/4/2019 to 10/3/2020)
2. Exhibit 2: Copy of Appellant's Form I-797C Notice of Action (dated 9/23/2020)
3. Exhibit 3: Copy of Department's SAVE Results

For the reasons stated below, the Department's Determination dated September 22, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of February 9, 2020 to December 26, 2020.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits

called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[3] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs. Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs for work weeks ending February 15, 2020 to October 10, 2020. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 22, 2020. The Department's determination found the Appellant was not a U.S. Citizen, non-national citizen, or qualified alien and denied benefits effective February 9, 2020 to December 26, 2020. Appellant filed the present appeal on September 24, 2020. The issues on appeal is whether Appellant is a qualified alien eligible for PUA.[4]

IV. FINDINGS OF FACT

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

1. On or around July 2019, Appellant applied for permanent residency. Appellant's application has not been granted and is currently pending review.

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
[4] During the Administrative Hearing, Appellant testified as to potential overpayment issues and PUA funds previously received. Accordingly, this matter shall be referred to the Department's Benefit Payment Control Unit for further investigation.

2. In light of the pending application, Appellant was granted employment authorization. Appellant possessed a valid Employment Authorization Document ("EAD")[5] card with the following credentials:
    a. Date of Birth: August 19, 1992
    b. USCIS #: 219-279-892
    c. Category: C09
    d. Card #: MSC1991484178
    e. Valid from October 4, 2019 to October 3, 2020.[6]
3. Appellant's employment authorization was extended by 180 days.[7]
4. On or around September 21, 2020, the Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the alien status of PUA applicants so only those entitled to benefits receive them. The SAVE results indicate that Appellant was a EAD Category C09.[8]
5. The Department issued a Determination disqualifying Appellant for PUA because she is not a US Citizen, non-citizen national, or qualified alien.
6. Appellant appealed under the assumption she is a qualified alien.
7. Appellant is not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one year, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.
8. Appellant has no other documents to rebut the SAVE verification. Appellant admits that her current status is EAD Category C09.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. **Appellant is not a qualified alien eligible for PUA.**

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[5] An EAD is a work permit that allows noncitizens to work in the United States.
[6] Exhibit 1.
[7] Exhibit 2.
[8] Exhibit 3.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant makes no argument or attempt to identify which provision of the qualified alien definition She fits into. When asked for additional evidence to establish Appellant's argument, Appellant had no other documents to satisfy the above-stated definitions. When questioned with regards to each provision of the qualified alien statute, as listed above, Appellant stated she was not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one year, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. First, the SAVE results indicate that Appellant is an EAD, Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. While the undersigned recognizes that Appellant has a pending application or petition with USCIS, said petition has not been approved or granted. Pending applications are insufficient to establish a qualified alien status. In conclusion, Appellant was not a qualified alien at the time of the weeks she is claiming PUA benefits and is not currently a qualified alien.

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VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 9, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **14th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 20-0018**
Elvie B. Codia	)	
Appellant,	)	**ADMINISTRATIVE ORDER**
v.	)	
CNMI Department of Labor, Division of Employment Services-PUA,	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 15, 2020 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Elvie B. Codia ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker Dennis Cabrera. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant's Employment Certification
2. Exhibit 2: Parolee Card
3. Exhibit 3. Copy of Appellant's EAD Card (Valid from 6/4/2020 to 6/29/2020)
4. Exhibit 4: Copy of Appellant's previous EAD cards
5. Exhibit 5: Copy of Appellant's previous Parolee Cards
6. Exhibit 6: Copy of Department's SAVE Results[1]

[1] Appellant objected to the SAVE results because the search was initiated using Appellant's previous EAD card number. Appellant's objection was overruled because the remaining identifiers like Appellant's name, date of birth, and alien number were also used to identify and pull records for Appellant. Further, the Department testified that the correct information pulled the most up to date information and the typo would not have affected the results.

For the reasons stated below, the Department's Determination dated September 29, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of April 5, 2020 to December 26, 2020.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[2] and Federal Pandemic Unemployment Compensation ("FPUC").[3] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[4] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs. Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 24, 2020 with a mail date of September 29, 2020. The Department's determination found the Appellant was not a U.S. Citizen, non-national citizen, or qualified alien and denied benefits effective April 5, 2020 to December 26, 2020. Appellant filed the present appeal on September 29, 2020. The issues on appeal is whether Appellant is a qualified alien eligible for PUA.

IV. FINDINGS OF FACT

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

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[2] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1. Prior to the pandemic, Appellant was employed as a Delivery Driver at Younis Art Studio, Inc. ("Employer") located in Garapan, Saipan. Appellant regularly worked 20 hours per week at a rate of $7.65 per hour.[5]
2. For the safety of its employees, Employer temporarily locked down operations. As a result of the economic impact of COVID-19, Employer issued furloughs and reduced Appellant's working hours to zero, effective April 6, 2020.[6]
3. Appellant has not been recalled to work or otherwise returned to the workforce. Appellant has had no other work or income to report since being furloughed by Employer.
4. Appellant applied for PUA claiming weeks after April 6, 2020.
5. On September 24, 2020, the Department issued a determination with the mail date of September 29, 2010. The determination disqualified Appellant from PUA benefits because Appellant was not a U.S. Citizen, Non-citizen National, or a Qualified Alien at the time she was claiming benefits.
6. On September 29, 2020, Appellant filed the present appeal arguing that she was a qualified alien.
7. Application has a series of CBP Form 1-94 cards showing she was paroled in the U.S. on for the following periods:[7]
    a. August 30, 2012 through December 31, 2012;
    b. December 11, 2012 through December 31, 2014;
    c. December 22, 2014 through December 31, 2016;
    d. January 7, 2017 through December 31, 2018; and
    e. October 29, 2019 through June 29, 2020.
8. Additionally, Appellant was granted employment authorization with the Category C11. Appellant has Employment Authorization Document ("EAD")[8] cards valid for the following periods:[9]
    a. March 7, 2014 to December 31, 2014;
    b. March 2, 2015 to March 1, 2016;

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[5] Exhibit 1.
[6] *Id.*
[7] Exhibit 2 and Exhibit 5.
[8] An EAD is a work permit that allows noncitizens to work in the United States.
[9] Exhibit 4.

c. December 31, 2016 to January 30, 2017;

d. January 30, 2017 to June 29, 2019; and

e. June 4, 2020 to June 29, 2020.

9. Appellant applied for permanent residency in June 2020. Appellant's application was received by U.S. Citizenship and Immigration Services (USCIS) in July 2020. Appellant's application for permanent residency is still pending and has not been granted.

10. Appellant's employment authorization was extended by 180 days.[10]

11. On or around September 14, 2020, the Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the alien status of PUA applicants so only those entitled to benefits receive them. The SAVE results indicate that Appellant has a pending application and presently granted EAD Category C11 for June 4, 2020 to June 29, 2020.[11]

12. The Department issued a Determination disqualifying Appellant for PUA because she is not a US Citizen, non-citizen national, or qualified alien.

13. Appellant appealed under the assumption she is a qualified alien.

14. Appellant is not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one consecutive year during the pandemic assistance period, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.

15. Appellant has no other documents to rebut the SAVE verification.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

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[10] On August 11, 2020, USCIS issued a press release that it would automatically extend parole and employment authorization if applicable, for parolees who timely applied for the Commonwealth of the Northern Mariana Islands (CNMI) long-term resident status.

[11] Exhibit 6.

1. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant argues she is a qualified alien because she is a Parolee with an EAD Category C11 since 2012. Category C11 is a USCIS EAD code used to denote an alien paroled in the United States in the public interest or temporarily for emergency reasons. Category C11 fits into the parolee provision of the Qualified Alien definition, provided the one-year requirement is met. Multiple time periods cannot be combined to meet the one-year requirement.

The undersigned finds that Appellant has insufficient evidence to establish she is a qualified alien, as defined above. Based on the evidence and testimony provided, Appellant was admitted into the U.S. as a parolee and granted employment authorization during multiple periods, dating back to 2012. However, there was a break or gap in her status from her EAD expiration in June 29, 2019 to her Parolee admission in October 29, 2019. Appellant admits she did not have any status during that period. Since the Appellant may not aggregate multiple time periods to meet the one year requirement, she cannot be considered paroled into the US under §212(d)(5) of the INA for at least one year during the assistance period of the PUA program until one year after October 29, 2019.[12]

[12] Assuming Appellant meets all other eligibility requirements of PUA, Appellant is encouraged to reapply after October 30, 2020.

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. As discussed above, Appellant does not meet the one-year requirement for parolees admitted into the U.S. Further, when questioned with regards to each of the other provisions of the qualified alien statute, as listed above, Appellant stated she was not a permanent resident, alien granted asylum, refugee, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty. In conclusion, Appellant was not a qualified alien during the claimed weeks and she is not currently a qualified alien.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of April 5, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **19th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	**PUA Case No. 20-0019**
Mary Ann G. Pascua	
Appellant,	**ADMINISTRATIVE ORDER**
v.	
CNMI Department of Labor, Division of Employment Services-PUA,	
Appellee.	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on October 20, 2020 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Mary Ann G. Pascua ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Supervisor Jake Maratita and Labor Certification Worker Dennis Cabrera. Interpreter Arlene Rafanan assisted with the proceedings. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant's Employment Certification (dated April 22, 2020)
2. Exhibit 2: Copy of Appellant's Employment Certification (dated September 18, 2020)
3. Exhibit 3. Copy of Appellant's Notice of Temporary Layoff (dated July 9, 2020)
4. Exhibit 4. Copy of Appellant's Job Offer (dated August 31, 2020)
5. Exhibit 5: Copy of Appellant's EAD cards (4)
6. Exhibit 6: Copy of Appellant's CBP 1-94 Forms (5)
7. Exhibit 7: Copy of Department's SAVE Results
8. Exhibit 8: Copy of Appellant's Separation Notice (dated September 18, 2020)

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For the reasons stated below, the Department's Determination dated September 29, 2020 is **AFFIRMED**. Based on the claim filed, Appellant is not eligible for benefits for the period of March 22, 2020 to December 26, 2020.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[3] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs. Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on September 22, 2020 with a mail date of September 29, 2020. The Department's determination found the Appellant was not a U.S. Citizen, non-national citizen, or qualified alien and denied benefits effective March 22, 2020 to December 26, 2020. Appellant filed the present appeal on September 30, 2020. The issues on appeal is whether Appellant is a qualified alien eligible for PUA.

IV. FINDINGS OF FACT

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

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1. Prior to the pandemic, Appellant was employed as a waitstaff at Pacific Island Club, Inc. ("Employer") located in San Antonio, Saipan. Appellant regularly worked 40 hours per week at a rate of $7.70 per hour.[4]
2. Due to the economic impact of and financial difficulties of COVID-19, Employer suspended operations and reduced operations. As a result, Appellant's hours were reduced to 20 hours effective, February 27, 2020. Subsequently, Appellant was furloughed effected June 20, 2020 and laid-off effective August 1, 2020.[5] Appellant was rehired September 16, 2020 as waitstaff on a "on call basis."[6] While the terms of her contract are unknown, Appellant testifies to working approximately 2.5 hours a week.
3. Appellant applied for PUA claiming weeks from March 22, 2020 to present.
4. On September 22, 2020, the Department issued a determination with the mail date of September 29, 2010. The determination disqualified Appellant from PUA benefits because it deemed that Appellant was not paroled into the U.S. under 212(d)(5) of the INA for at least one year at the time of the pandemic.
5. On September 30, 2020, Appellant filed the present appeal arguing that she was a qualified alien.
6. Application has a series of CBP Form 1-94 cards showing she was paroled in the U.S. on for the following periods:[7]
    a. March 15, 2012 through December 31, 2012;
    b. November 12, 2014 through December 31, 2014;
    c. November 15, 2014, 2014 through December 31, 2016;
    d. January 11, 2017 through December 31, 2018; and
    e. October 29, 2019 through June 29, 2020.
7. Additionally, Appellant was granted employment authorization with the Category C11. Appellant has Employment Authorization Document ("EAD")[8] cards valid for the following periods:[9]

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[4] Exhibit 1.
[5] Exhibit 2 and Exhibit 3.
[6] Exhibit 4.
[7] Exhibit 6.
[8] An EAD is a work permit that allows noncitizens to work in the United States.
[9] Exhibit 5.

a. November 25, 2015 through December 31, 2016;

b. December 8, 2017 through December 31, 2018;

c. December 8, 2017 through June 29, 2019; and

d. January 16, 2020 through June 29, 2020.

8. Appellant applied for permanent residency in May of 2020. Appellant's application was received by U.S. Citizenship and Immigration Services (USCIS) but the application is either pending or under review. Appellant is not currently a permanent resident.

9. Appellant's employment authorization was extended by 180 days.[10]

10. On or around September 14, 2020, the Department entered Appellant's information into the Systematic Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division. This database is used to determine the alien status of PUA applicants so only those entitled to benefits receive them. The SAVE results indicate that Appellant has a pending application and presently paroled into the U.S. with a valid CBP Form 1-94 dated October 29, 2019 to June 29, 2020.[11]

11. The Department issued a Determination disqualifying Appellant for PUA because she is not a US Citizen, non-citizen national, or qualified alien.

12. Appellant appealed under the assumption she is a qualified alien.

13. Appellant is not a permanent resident, alien granted asylum, refugee, alien paroled into the U.S. for at least one consecutive year during the pandemic assistance period, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty.

14. Appellant has no other documents to rebut the SAVE verification or account for the gaps in her parolee statutus.

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

///

[10] On August 11, 2020, USCIS issued a press release that it would automatically extend parole and employment authorization if applicable, for parolees who timely applied for the Commonwealth of the Northern Mariana Islands (CNMI) long-term resident status.

[11] Exhibit 7.

1. Appellant is not a qualified alien eligible for PUA.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Here, Appellant argues she is a qualified alien because she is a Parolee with an EAD Category C11 since 2012. Category C11 is a USCIS EAD code used to denote an alien paroled in the United States in the public interest or temporarily for emergency reasons. Category C11 fits into the parolee provision of the Qualified Alien definition, provided the one-year requirement is met. Multiple time periods cannot be combined to meet the one-year requirement.

The undersigned finds that Appellant has insufficient evidence to establish she is a qualified alien, as defined above. Based on the evidence and testimony provided, Appellant was admitted into the U.S. as a parolee and granted employment authorization during multiple periods, dating back to 2012. However, there was a break or gap in her parolee status because December 31, 2018 to October 29, 2019. Appellant admits she did not have any status during that period. Since the Appellant may not aggregate multiple time periods to meet the one year requirement, she cannot be considered paroled into the US under §212(d)(5) of the INA for at least one year during the assistance period of the PUA program until one year after October 29, 2019.[12]

[12] Assuming Appellant meets all other eligibility requirements of PUA, Appellant is encouraged to reapply after October 30, 2020.

Based on the evidence and testimony provided, Appellant does not meet the definition of a qualified alien. As discussed above, Appellant does not meet the one-year requirement for parolees admitted into the U.S. Further, when questioned with regards to each of the other provisions of the qualified alien statute, as listed above, Appellant stated she was not a permanent resident, alien granted asylum, refugee, an alien pending deportation or removal, an alien granted conditional entry, a Cuban or Haitian entrant, or an alien battered or subject to extreme cruelty. In conclusion, Appellant was not a qualified alien during the claimed weeks and she is not currently a qualified alien.

VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 22, 2020 to December 26, 2020.

Instructions and appeal rights with respect to second level appeals are pending clarification from U.S. Department of Labor. Until then, any party aggrieved by this Order may request a second level appeal with a signed letter indicating why he or she disagrees with the decision. The letter may be submitted to the Administrative Hearing Office in person (Building #1357, Mednilla Ave) or electronically mailed to hearing@dol.gov.mp. Further action regarding second level appeals will remain pending until further guidance from U.S. Department of Labor.

So ordered this **20th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:	)	**Labor Case No. 20-028**
Haisong Chen,	)	
	)	**ORDER OF DISMISSAL**
Complainant,	)	
	)	
v.	)	
	)	
Imperial Pacific International (CNMI) LLC,	)	
	)	
Respondent.	)	
	)	

On October 6, 2020, Complainant Haisong Chen ("Complainant") filed a written request to withdraw, or voluntarily dismiss, the complaint in the above-captioned matter. Complainant provides no reason for the withdrawal. Nonetheless, the undersigned finds that good cause for dismissal exists when the Complainant no longer wishes to pursue their claims. Accordingly, Labor Case 20-028 is hereby **DISMISSED**.

So ordered this **8th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:	**Labor Case No. 20-029**
Joseph B. Fresado, Complainant, v. Sagitarius Corporation, Respondent.	**SUA SPONTE ORDER OF DISMISSAL**

On September 29, 2020, Complainant initiated a labor case against Respondent for a violation of the employment preference law. Generally, the employment preference law requires CNMI employers to give preferential employment opportunities to U.S. citizens, U.S. permanent residents, and CNMI permanent residents. 3 CMC §§ 4521 et. seq. The complainant has no allegations to support this claim. Further, Complainant is a foreign national worker and has no standing to sue with regards to employment preference.[1] Additional allegations cannot cure deficiencies in standing. Ultimately, the complaint is devoid of merit and cannot succeed. Accordingly, pursuant to 3 CMC § 4947(a), the complaint is hereby **DISMISSED**, *sua sponte*.

So ordered this **7th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

[1] "A *citizen or CNMI permanent resident or U.S. permanent resident* who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job." 3 CMC § 4528(a) (emphasis added).

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re the Matter of:	)	**Labor Case No. 20-029**
	)	
Joseph B. Fresado,	)	
	)	**ORDER DENYING REQUEST**
Complainant,	)	**TO STAY IN THE CNMI**
	)	
v.	)	
	)	
Sagitarius Corporation,	)	
	)	
Respondent.	)	
	)	

Complainant is a foreign national worker and was scheduled to depart the CNMI on October 5, 2020. However, on October 3, 2020, Complainant filed a request to stay in the CNMI due to the above-captioned labor case. The undersigned recognizes Complainant's need and desire to be present in order to pursue his complaint. However, the requirement to depart the CNMI is based on the NMI Workforce Act of 2018, P.L. 115-218. The undersigned has no legal power or authority to grant the request to stay in conflict with federal law. *See* 3 CMC § 4944; *see also* 3 CMC § 4947. Accordingly, Complainant's request to stay in the CNMI is hereby **DENIED**.

So ordered this **7th** day of October, 2020.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer