

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
42-32 (COR)	D.G. Rodriguez, Jr.	AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES DIRECTOR TO CHARGE THIRD PARTY PAYERS, FIRST, FOR SERVICES PROVIDED TO INDIVIDUALS WHO QUALIFY UNDER ANY WELFARE PROGRAM (MEDICAID, MEDICALLY INDIGENT PROGRAM, ETC.) BY ADDING A NEW ARTICLE 12 TO CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED.	2/14/2013 3:17 P.M.	2/15/13	Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens	4/11/13, 10:00am		Fiscal Notes Requested 2/14/13 Fiscal Notes Received 5/9/13 4:22 P.M.



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

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Rory J. Respicio
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MAJORITY LEADER

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VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

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V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

May 9, 2013

Memorandum

To: **Rennae Meno**
Clerk of the Legislature

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Fiscal Notes**

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

Bill Nos.: 27-32(COR), 42-32(COR), 79-32(COR)

WAIVERS:

Bill No. 48-32(LS)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2013 MAY - 9 PM 4: 22

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

JOHN A. RIOS
DIRECTOR

RAY TENORIO
LIEUTENANT GOVERNOR


MAY 08 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 27-32(COR), 42-32(COR), 79-32(COR), and Fiscal Note Waiver on the following Bill Nos.: 48-32(LS).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.


JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 42-32(COR)**

AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES DIRECTOR TO CHARGE THIRD PARTY PAYERS, FIRST, FOR SERVICES PROVIDED TO INDIVIDUALS WHO QUALIFY UNDER ANY WELFARE PROGRAM (MEDICAID, MEDICALLY INDIGENT PROGRAM, ETC.) BY ADDING A NEW ARTICLE 12 TO CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED.

Department/Agency Appropriation Information	
Dept./Agency Affected: Public Health & Social Services	Dept./Agency Head: James W. Gillan
Department's General Fund (GF) appropriation(s) to date:	50,488,109
Department's Other Fund (Specify) appropriation(s) to date: Healthy Futures Fund & Environmental Health Fund	6,562,289
Total Department/Agency Appropriation(s) to date:	\$57,050,398

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹		\$0	\$0
FY 2013 Adopted Revenues	\$0	\$0	\$0
FY 2013 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- 1. Does the bill contain "revenue generating" provisions? // Yes /x/ No
If Yes, see attachment
- 2. Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A // Yes // No
If no, what is the additional amount required? \$ _____ // N/A
- 3. Does the Bill establish a new program/agency? // Yes /x/ No
If yes, will the program duplicate existing programs/agencies? // N/A // Yes /x/ No
Is there a federal mandate to establish the program/agency? // Yes /x/ No
- 4. Will the enactment of this Bill require new physical facilities? // Yes /x/ No
- 5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /x/ Yes // No
// Requested agency comments not received as of the due date // Other:

Analyst: Orilda J. Guerrero Date: 5/3/2013 Director: John A. Rios, Director Date: MAY 07 2013

Comments:
1/ See Attached.

Comments on Legislative Bill No. 42-32 (COR)

The proposed legislation is seeking to implement Section 6035 of the Deficit Reduction Act of 2005 (U.S. P.L. 1902(a)(25)) which requires that State government:

- i) “Clarify which specific entities are considered “third parties” and “health insurers” that may be liable for payment and that cannot discriminate against individuals based on their eligibility for Medicaid;
- ii) Require that states pass laws requiring health insurers provide the state coverage, eligibility and claims data needed by the state to identify potentially liable third parties, honor assignments to the state of a Medicaid/Medically Indigent recipient’s right to payment by such insurers for health care items or services and not deny such assignment or refuse to pay claims submitted by Medicaid or the Medically Indigent Program based on procedural reasons.

The Bill is also proposing a new Article 12 added to Chapter 2 of Title 10 GCA which:

- a) Identifies Department of Public Health and Social Services (DPHSS) as the authorized department to recover third-party payers for services provided to recipient of Medicaid/Medically Indigent program;
- b) Identifies the Third-Party Basis and Purpose;
- c) Defines the terminology of the program;
- d) Requires the Division of Social Services to develop a state plan;
- e) Re-identifies DPHSS responsibilities in the collection from third party payers on behalf of the recipient of the program;
- f) Authorizes obtaining of information by Medicaid and MIP from recipients to determine third party liabilities;
- g) Keeps all information obtained from recipients confidential.

Per information from the Department of Public Health, there are 36,364 recipients under the Medicaid Program and 9,275 recipients under the Medically Indigent Program. Although the proposed measure is a federal requirement at the state level, states and local laws promulgating such requirement may be challenged, resulting in un-budgeted litigation expenses during the fiscal year. There is also a cost to enforcing this local mandate such as the cost of additional manpower for the enforcement of the program or the cost of collection. In addition, an indirect impact on the government’s health cost program which has the potential of increasing as the result of higher operating cost of participating health insurance companies. Lastly, there is a potential conflict of interest with the DPHSS since the Department is also a third-party payer for Medicaid and MIP.



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Aline Yamashita
Member

February 15, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Majority Leader & Rules Chair

Subject: Referral of Bill No. 42-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 42-32(COR).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment



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February 14, 2013

VIA FACSIMILE

(671) 472-2825

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill Nos. ⁴⁸32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bill. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bill.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,


Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature

2013 FEB 14 PM 5:15
Copy

Bill No. 42-32(COR) – D.G. Rodriguez, Jr.

AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES DIRECTOR TO CHARGE THIRD PARTY PAYERS, FIRST, FOR SERVICES PROVIDED TO INDIVIDUALS WHO QUALIFY UNDER ANY WELFARE PROGRAM (MEDICAID, MEDICALLY INDIGENT PROGRAM, ETC.) BY ADDING A NEW ARTICLE 12 TO CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED.

MESSAGE CONFIRMATION

FEB-14-2013 04:51 PM THU

FAX NUMBER : 4772240
NAME : GNF

NAME/NUMBER : 4722825
PAGE : 2
START TIME : FEB-14-2013 04:50PM THU
ELAPSED TIME : 00' 18"
MODE : STD ECM
RESULTS : [O.K]



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February 14, 2013

VIA FACSIMILE
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John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note - Bill Nos. 48-32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bill. Pursuant to 2 CCA §9103, I respectfully request the preparation of fiscal notes for the referenced bill.

Si Yu'os ma'ase' for your attention to this matter.

Very Truly Yours,

Rory J. Respicio
Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature

*Rec'd by: Ito Salas @ BBMR
Confirmed by JCS 2/14/13 5:07pm*

MESSAGE CONFIRMATION

FEB-20-2013 01:41 PM WED

FAX NUMBER : 4772240
NAME : GNF

NAME/NUMBER : 4722825
PAGE : 3
START TIME : FEB-20-2013 01:40PM WED
ELAPSED TIME : 00' 32"
MODE : STD ECM
RESULTS : [O.K]



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February 14, 2013

VIA FACSIMILE
(671) 472-2825

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill Nos. ~~48-32~~ (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhån's* most recently introduced bill. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bill.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Rory J. Respicio
Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature

2013 FEB 14 PM 5:15

*Resent per request of
Analyn Istagnio. Sent
received 2/20/13 1:54 pm
by Analyn Istagnio*

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) Regular Session

Bill No. 42-32 (COR)

Introduced by:

D. G. RODRIGUEZ, JR. 

AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES DIRECTOR TO CHARGE THIRD PARTY PAYERS, FIRST, FOR SERVICES PROVIDED TO INDIVIDUALS WHO QUALIFY UNDER ANY WELFARE PROGRAM (MEDICAID, MEDICALLY INDIGENT PROGRAM, ETC.) BY ADDING A NEW ARTICLE 12 TO CHAPTER 2, TITLE 10, GUAM CODE ANNOTATED.

2013 FEB 14 PM 3:17

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that there is no Medicaid or Medically Indigent Program recovery and
4 reimbursement policy from third-party payers in the Guam statute. In the
5 enactment of the Deficit Reduction Act of 2005 (PL. 109-761) every State and
6 Territory participating under Title XIX of the Social Security Act must comply
7 with the changes to the third-party liability policies of the Medicaid program under
8 Section 6035 of the DRA amended section 1902 (a)(25). The amendment requires
9 every State and Territory to:

10 (1) Clarify which specific entities are considered “third parties” and
11 “health insurers” that may be liable for payment and that cannot discriminate
12 against individuals based on their eligibility for Medicaid; and

13 (2) Require that states pass laws requiring health insurers: provide the
14 state with coverage, eligibility and claims data needed by the state to identify
15 potentially liable third parties; honor assignments to the state of a

1 Medicaid/Medically Indigent recipient’s right to payment by such insurers for
2 health care items or services; and not deny such assignment or refuse to pay
3 claims submitted by Medicaid or the Medically Indigent Program based on
4 procedural reasons

5 **Section 2.** A new Article 12 is hereby added to Chapter 2 of Title 10, Guam
6 Code Annotated, to read:

7 **“ARTICLE 12**

8 **§3000. Authority of the Department of Public Health and Social**
9 **Services.** The Department of Public Health and Social Services is hereby
10 authorized to recover from third-party payers for services provided to recipients of
11 Medicaid/Medically Indigent Program, etcetera.

12 **§3001. Third-Party Payer Basis and Purpose.** This Article sets forth the
13 Department of Public Health & Social Services’ (DPHSS) Medicaid and Medically
14 Indigent State Plan requirements concerning:

15 (a) The legal liability of third parties to pay for services provided under the
16 plan;

17 (b) Assignment to the DPHSS of an individual's rights to third party
18 payments; and

19 (c) Cooperative agreements between the DPHSS, Division of Public
20 Welfare and other entities for obtaining third party payments.

21 **§3002. Definitions.**

1 (a) “DPHSS” shall mean the Department of Public Health & Social
2 Services;

3 (b) “Director” shall mean the Director of the Department of Public Health
4 & Social Services;

5 (c) “Health care insurer” shall mean a self-insured health benefit plan, a
6 group health plan as defined in section 607(1) of the employment retirement
7 income security act of 1974, a pharmacy benefit manager or any other party that by
8 statute, contract or agreement is responsible for paying for items or services
9 provided to an eligible person under this act,

10 (d) “Health care services” includes products provided or purchased through
11 an approved facility

12 (e) “Insurance, medical service, or health plan” includes a preferred
13 provider organization, an insurance plan described as Medicare supplemental
14 insurance, and a personal injury protection plan or medical payments benefit plan
15 for personal injuries resulting from the operation of a motor vehicle.

16 (f) “Private insurer” means:

17 (1) Any commercial insurance company offering health or casualty
18 insurance to individuals or groups (including both experience-rated
19 insurance contracts and indemnity contracts);

20 (2) Any profit or nonprofit prepaid plan offering either medical services
21 or full or partial payment for services included in the State plan; and

22 (3) Any organization administering health or casualty insurance plans for
23 professional associations, unions, fraternal groups, employer-
24 employee benefit plans, and any similar organization offering these
25 payments or services, including self-insured and self-funded plans
26

1 (g) “*Third-party payer*” means an entity that provides an insurance, medical
2 service, or health plan by contract or agreement, including an automobile liability
3 insurance or no fault insurance carrier, and any other plan or program that is
4 designed to provide compensation or coverage for expenses incurred by a
5 beneficiary for health care services or products.

6 (h) “*Title IV-D agency*” means the organizational unit in the State that has
7 the responsibility for administering or supervising the administration of a State
8 plan for child support enforcement under title IV-D of the Act.

9 **§3003. State Plan Requirements**

10 (a) The Division of Social Services State Plan must provide for:

11 (1) Identifying third parties liable for payment of services under the plan
12 and for payment of claims involving third parties.

13 (2) Assignment of rights to benefits, cooperation with the agency in
14 obtaining medical support or payments, and cooperation in identifying
15 and providing information to assist the State in pursuing any liable
16 third parties; and

17 (3) Assuring the requirements for cooperative agreements and incentive
18 payments for third party collections are met.

19 **§3004. Health care services incurred on behalf of covered beneficiaries;
20 collection from third-party payer.**

21 (a) In the case of a person who is a covered beneficiary, the DPHSS shall
22 have the right to collect from a third-party payer reasonable charges for health care
23 services incurred by the DPHSS on behalf of such person through a health facility
24 to the extent that the person would be eligible to receive reimbursement or
25 indemnification from the third-party payer if the person were to incur such charges
26 on the person’s own behalf. If the insurance, medical service or health plan of that

1 payer includes a requirement for a deductible or copayment by the beneficiary of
2 the plan, then the amount that the DPHSS may collect from the third-party payer is
3 a reasonable charge for the care provided less the appropriate deductible or
4 copayment amount.

5 (b) A covered beneficiary may not be required to pay an additional amount
6 to the DPHSS for health care services by reason of this section.

7 (c) No provision of any insurance, medical service, or health plan contract
8 or agreement having the effect of excluding from coverage or limiting payment of
9 charges for certain care shall operate to prevent collection by the DPHSS under
10 subsection (a) if that care is provided:

- 11 (1) Through an approved facility;
- 12 (2) Directly or indirectly by a governmental entity;
- 13 (3) To an individual who has no obligation to pay for that care or for
14 whom no other person has a legal obligation to pay; or
- 15 (4) By a provider with which the third party payer has no participation
16 agreement.

17 (d) Under regulations prescribed under subsection (e), records of the facility
18 that provided health care services to a beneficiary of an insurance, medical service,
19 or health plan of a third-party payer shall be made available for inspection and
20 review by representatives of the payer from which collection by the DPHSS is
21 sought.

22 (e) To improve the administration of this section the Director may prescribe
23 regulations providing for the collection of information regarding insurance,
24 medical service, or health plans of third-party payers held by covered beneficiaries.

1 (f) Information obtained under this subsection may not be disclosed for any
2 purpose other than to carry out the purpose of this section

3 (g) Amounts collected under this section from a third-party payer or under
4 any other provision of law from any other payer for health care services provided
5 at or through an approved facility shall be credited to the appropriation supporting
6 the maintenance and operation of the facility and shall not be taken into
7 consideration in establishing the operating budget of the facility.

8 (h) In the case of a third-party payer that is an automobile, liability insurance
9 or no fault insurance carrier, the right of the DPHSS to collect under this section
10 shall extend to health care services provided to a person entitled to health care
11 under this Act.

12 **§3005. Obtaining health insurance information: Initial application and**
13 **redetermination processes for Medicaid and Medically Indigent Program**
14 **eligibility.**

15 (a) If the Medically Indigent Program (MIP) or the Medicaid agency
16 determines eligibility for MIP or Medicaid, it must, during the initial application
17 and each redetermination process, obtain from the applicant or recipient such
18 health insurance information as would be useful in identifying legally liable third
19 party resources so that the agency may process claims under the third party liability
20 payment procedures. Health insurance information may include, but is not limited
21 to, the name of the policy holder, his or her relationship to the applicant or
22 recipient, the social security number (SSN) of the policy holder, and the name and
23 address of insurance company and policy number.

1 (b) Cooperation in establishing paternity and in obtaining medical support
2 and payments and in identifying and providing information to assist in pursuing
3 third parties who may be liable to pay.

4 **§3006. Confidentiality of information obtained.** Any information
5 obtained by the director or the administration under this section shall be
6 maintained as confidential as required by the Health Insurance Portability and
7 Accountability Act (HIPAA) of 1996 (P. L. 104-191; 110 stat. 1936) and other
8 applicable law and shall be used solely for the purpose of determining whether a
9 health care insurer was also providing coverage to an individual during the period
10 that the individual was an eligible member, for the purposes of avoiding payments
11 by the system for services covered through other insurance and for enforcing the
12 administration's right to assignment

13 **§3007. Legal proceedings, compromise, settlement or waiver.**

14 (a) The DPHSS may institute and prosecute legal proceedings against a
15 third-party payer to enforce a right of the DPHSS under this section.

16 (b) The Director may compromise, settle, or waive a claim of the DPHSS
17 under this section.

18 **§3008. Severability.** *If any provision of this Law or its application to any*
19 *person or circumstance is found to be invalid or contrary to law, such invalidity*
20 *shall not affect other provisions or applications of this Law which can be given*
21 *effect without the invalid provisions or application, and to this end the provisions*
22 *of this Law are severable.”*

23 **Section 3. Effective Date.** This Act shall become immediately effective
24 upon enactment.