



Office of the Governor of Guam

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Felix P. Camacho  
Governor

Michael W. Cruz, M.D.  
Lieutenant Governor

30-18-0969 10 NOV 2010

The Honorable Judith T. Won Pat  
Speaker  
Thirtieth Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910

*[Handwritten signature]*  
11/12/10  
4-

Dear Speaker Won Pat:

*Hafa Adai yan Saludas!* Pursuant to Section 14 of Public Law 30-196 relative to **Special Fund Transfer Authority of I Maga'lahaen Guåhan** the following is herewith reported:

From Department	To Department	From Object Category	Amount	To Object Category	Amount	Purpose of Transfer(s)
Mental Health and Substance Abuse	Mental Health and Substance Abuse	(240) Supplies & Materials	(\$12,000)	(220) Travel	\$12,000	To cover travel authorization request for Lyndsey N. Miller as stipulated in her Off-Island Employment Agreement.

*Sins eru yan Magåhet,*  
*[Handwritten signature]*

FELIX P. CAMACHO  
I Maga'lahaen Guåhan  
Governor of Guam

Enclosure(s)

CC: Director, Office of Finance and Budget, *I Mina'Trenta Na Liheslaturan Guåhan*

2010 NOV 15 PM 2:43

John M. Weisenberger  
Attorney General of Guam



Phillip J. Tydingco  
Chief Deputy Attorney General

RECEIVED  
10:30am  
OCT 28 2010  
Bureau of Budget and Management Research

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**OFFICE of the ATTORNEY GENERAL**

October 28, 2010

**INFORMATION AND GUIDANCE**

**Ref: BBMR 10-1011**

**TO:** Director, Bureau of Budget and Management Research

**FROM:** Assistant Attorney General

**SUBJECT:** Transfer of Funds to DMHSA for Psychologist Contract

We hereby respond to an Email from the Director of BBMR requesting an opinion as to whether the Governor may transfer funds to DMHSA to pay the travel expenses of a psychologist to travel to Guam. DMHSA already has a fully executed contract that requires it to pay said expenses. However, the FY 2011 Budget Act states:

**Legislative Intent.** It is the intent of I Liheslaturan Guahan that the Department of Mental Health and Substance Abuse shall expend the funds appropriated in accordance with the object class appropriation levels. The DMHSA shall not have the authority to transfer any funds between object classes. Funds shall only be transferred to the travel object class in so much as the funds transferred represent the local match to authorized federal travel...

**FY 2011 Budget Act; Chapter III; Section III.**

We believe that this section restricts only the Department's transfer authority and not the Governor's transfer authority. This "Legislative Intent" section of the Budget Act applies to DMHSA and no other government entity or official and its language refers mainly to the Department. It says nothing about the Governor.

Furthermore, sections labeled "legislative intent" are not usually binding. They are usually read as "road maps" or "guidelines" to understanding the text of a law. In this case, the text appears in the following section, which names object categories and specifies appropriations for each.

The psychologist's contract appears regular on its face. The government is likely to be open to suit if it does not perform its end of the bargain it has already struck.

To sum up, there is no legal impediment to the Governor's use of his transfer authority to pay the travel expenses of this professional.

Respectfully submitted,

By:   
**DAVID J. HIGHSMITH**  
Assistant Attorney General



department of  
**MENTAL HEALTH &  
SUBSTANCE ABUSE**  
Dipartimento Salud Hinasso  
Yon Abuson Amot

790 Gov. Carlos G. Camacho Rd.  
Tamuning, Guam 96913  
Phone: 671-647-5330  
Fax: 671-647-5402

FELIX PEREZ CAMACHO  
Governor

MICHAEL W. CRUZ, M.D.  
Lieutenant Governor

WILFRED G. AFLAGUE  
Director

**RECEIVED**  
10:54am  
OCT 25 2010  
Bureau of Budget and  
Management Research

25 October 2010

**MEMORANDUM**

**TO:** Bertha M. Duenas, Director  
Bureau of Budget and Management Research

**FROM:** Wilfred G. Aflague, Director

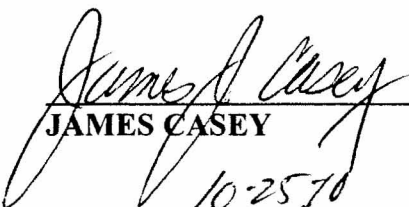
**SUBJECT:** Request for Appropriation/Allotment Modification  
Account No.: 5602A112300GA003

Hafa adai, Ms. Duenas. This is to request for the Governor's transfer Authority as provided in FY2011 Appropriations Budget, P.L. 30-196, Chapter XII, §14, for travel costs that are necessary to implement the employment contract of Dr. Lindsey Miller, as signed by the Governor on September 30, 2010. The contractual provides for travel costs for Dr. Miller to travel to Guam from Ohio, USA, in order to begin her duties and responsibilities as stipulated in her contract with DMHSA. The respective Travel Authorization Request has been submitted to the BBRM.

The FY2011 DMHSA budget legislative intent states: "The DMHSA shall not have the authority to transfer any funds between object classes." Therefore, on Friday, October 22, 2010, a meeting was held with Mr. David Highsmith, assistant attorney general and DMHSA management including Mr. Wilfred G. Aflague, director, Priscilla Richards, Chief of Administration, and the Federal Management Team, James Casey and Dr. James Kiffer, to present the dilemma of the absent travel appropriation and the fore-mentioned restriction to transfer funds by DMHSA. Mr. Highsmith indicated that he will submit the situation to the Attorney General and appeared confident that the Attorney General will be favorable to support the DMHSA request for the transfer of funds.

Your prompt and favorable assistance in this request is appreciated. For information, please the Chief of Administration at 647-5315.

  
WILFRED G. AFLAGUE

**CONCURRED:**   
JAMES CASEY  
10-25-10  
JC

  
JAMES KIFFER  
10-25-10

