



*Office of the Governor of Guam*

October 12, 2012

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina' Trentai Unu na Liheslaturan Guåhan*  
155 Hesler Place  
Hagatna, Guam 96932

Dear Madam Speaker,

Transmitted herewith is Bill No. 513-31 (COR), entitled: "AN ACT TO PROVIDE HEALTH INSURANCE TO GOVERNMENT OF GUAM EMPLOYEES AND RETIREES FOR FISCAL YEAR 2013", which I vetoed for the reasons set forth below.

Bill 513-31 represents one of the most fundamentally flawed pieces of legislation brought before this administration. It is wrought with *severe* legal, factual, financial and actuarial deficiencies in its assumptions and analyses. There can be no doubt but that this legislation represents another empty promise to the people of Guam.

For a subject as complex, expensive and important as the Government of Guam health insurance plan, made more complicated after the recent enactment of the federal Patient Protection and Affordable Care Act (PPACA), it is alarming that the legislature would rush to pass legislation that upends decades of a legally established methodology that allows for the competitive solicitation, expert review, and painstaking negotiations of health insurance proposals for GovGuam employees.

Bill 513-31 seeks to replace the Government of Guam Negotiating Team and the Guam Procurement Law with legislation that was developed by the Office of Finance and Budget (OFB) in a month's time, rushed through without any legal or actuarial consultation or review. Not only did the Committee on Insurance draft this legislation without the aid of any industry professionals or legal counsel, it actually *disregarded* the advice of such professionals whom it previously retained and the Attorney General's Office (AGO).

In 2004, Senator Pangelinan co-sponsored Bill 351-27, later enacted into law as P.L. 27-125. Public Law 27-125 created the Health Insurance Review Committee and appropriated \$150,000 to conduct a study and make recommendations on how to provide affordable quality health care to active and retired GovGuam employees. This committee commissioned Lewis & Ellis, Inc. Actuaries and Consultants, who released a report in January 2007 on the costs of health care for GovGuam employees and retirees. Their analysis indicated that "GovGuam would be better off with fewer benefit offerings (no more than 2) and probably only one carrier."

Bill 513-31 goes against the advice of this study commissioned by the legislature. It removes the negotiations process, which has proven to be an essential method to further reduce the health insurance rates, and which in FY2012 decreased rates by \$11.5 million over the FY2011 rates while expanding benefits. By removing negotiations and simply awarding a contract to everyone who qualifies, the government loses the ability to negotiate the best rates and the highest benefits for the employees of the government.

In addition, in the rush to pass Bill 513-31, the Committee on Insurance disregarded the advice of the government's legal counsel to wait for their legal review of the bill before passing it. The AGO's recommendation was further rebuffed after a direct appeal to the Committee's chairman himself. And, contrary to the advice oft touted by the Committee chairman in the legislative halls to "be quick, but don't hurry," advice apparently reserved for everyone else, the Committee on Insurance plowed ahead, issuing a fatally flawed bill based on legal deficiencies and factual inaccuracies.

The rush to pass this bill was originally premised on the assumed "jeopardy" that could result from the pending expiration of the FY2012 insurance contract. Bill 513-31 also refers to the "urgency" to complete the FY2013 insurance procurement. Such jeopardy and urgency is presumed to result from the legislative finding that the federal Health Insurance Portability and Accountability Act (HIPAA) does not supersede the Guam procurement law, and that an emergency procurement would be necessary and would result in additional cost to the government and the insured employees. However, as it turns out, this legislative finding is simply wrong.

Per the attached Attorney General opinion, HIPAA does preempt the local law. And, instead of increasing the cost of insurance, the Department of Administration (DOA) was able to negotiate – before Bill 513-31 was passed – a continuation of the existing health insurance, with an increase in plan designs required under PPACA, at no additional cost to the government or the GovGuam employee. To their credit, DOA was also able to negotiate a continuation of the current rates despite that the incumbent carrier could have charged more for the additional coverage as HIPAA does not place any restrictions on rates.

Had the Committee on Insurance not been in such a rush, and had it taken the advice of legal counsel to wait for a legal review of the bill, it would have had the benefit of knowing that the premise of its presumed jeopardy and urgency simply didn't exist.

It would have also had the benefit of knowing that Bill 513-31 is, in all likelihood, legally unenforceable since it seeks to circumvent the Guam Procurement Law and to deprive private parties of legally vested rights without due process of law. Last night on the news, I heard the chairman of the Committee on Insurance now admit the legal deficiency of Bill 513-31 by proclaiming that the bill, if passed into law, would simply have to sit in legal limbo until current procurement appeals are resolved. However, public admissions of legal deficiencies after the passage of legislation, do not serve to correct those deficiencies.

Also last night on the news, the Committee chairman declared that there is no way health insurance premiums will exceed \$69 million under Bill 513-31 because the bill sets a cap at that amount. In that regard, he is accurate – but there is also no way that this cap will be met. By the assessment of the experts and professionals, Bill 513 is mathematically impossible to achieve. Per the Lewis & Ellis study and the attached Hay Group, Inc. memo, there is no conceivable way that the math in this bill works. The data relied on by the Committee on Insurance is based on an existing exclusive contract. The non-exclusive arrangement required by Bill 513-31 must necessarily drive the price up. I can only assume that the Committee used the same calculations and formulae that it used to compute the government's annual budget projections, which has resulted in three consecutive years of budget deficits totaling over \$120 million.

The litany of legal, factual, financial and actuarial errors in Bill 513-31 are too many to outline in this message. It is sufficient that I attach hereto and incorporate as a part of my veto message the October 3, 2012 Attorney General opinion and Hay Group memo. I do wish to underscore, however, that part of the Hay Group memo that warns that one of the impacts of Bill 513-31 will be to raise costs for retirees, especially those over 65, and that for all employees "the possibility over paying would be huge." Bill 513-31 is fiscally irresponsible, and this administration will not enact legislation that increases the cost of necessities on our manamko and on our hardworking employees.

*Senseramente,*

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left.

**RAY TENORIO**

*I Maga'lahen-Guåhan para pa'go*  
Acting Governor of Guam

Attachment: copy of Bill

# Memo

To: Benita Manglona, DOA Government of Guam

From: Marie Dufresne, CCP, CBP, GRP, Senior Principal Hay Group

Date: October 3, 2012 Ref: SBill 513-31 – Health Insurance

cc: Bob Russell, ACA, Sr. Consultant Enc:

Subject: Concerns with SBill 513-31

Benita,

The following are our concerns with the understanding of the recently passed Bill related to the procurement of Health Insurance for FY2013. We offer these comments based on our more than 40 years of Underwriting, Actuarial and Benefits Consulting experience with large clients like GovGuam and we hope they will provide an overview of the parts of this bill that do not track with our long term consulting experience and our current experience with rates, carriers and approaches from recent GovGuam RFPs in FY12 and the aborted FY2013 process. Please use these comments as needed with the clear understanding these are only our opinions based on experience and there are no guarantees of actual results.

## 1. RFP Process for Gov Guam

With 2 years of experience with this process, as required by your laws, we feel that the process is overly difficult for insurers to respond to and it leaves open many areas for Protests as we have seen. As we discussed, some changes are needed including updating of the rules and streamlining the RFP process and negotiations within your required legislation. However, this Bill 513-31 seems to be extreme and presents the idea that there is an issue with FY2013 coverage continuation in some way.

First, in spite of the protests and the legislature determination that the initial process for FY2013 RFPs would be thrown out, it should be noted that DOA has fully protected the employees with the help of the HIPPA requirements and some good negotiations with the incumbent carrier on rates, increased plan design changes required by PPACA with no increase in premium rates – even though the carrier could have charged whatever they felt was needed, since HIPPA does not have any restrictions on rates for the extended period.

Basically, the FY2012 contract was continued, including PPACA required changes, including the participating Contract agreement that protect GovGuam from over paying for actual claim costs plus guaranteed maximum retention amounts of 15%. Any excess dollars will be returned to GovGuam once the year is ended and the claim run out occurs (mid 2013, if not already returned as part of the Calendar year 2011 MLR rebates already received. Given the fact that the CY 2011 has already been returned and only 3 months of the FY2012 experience was not included, we expect (based on actuarial review of current claims) that another \$5 million may be returned.

Granted that this means the Government has to wait for the return of the dollars, it should be noted that in prior years that participating process did not exist and all the excess was kept by the carrier. Since this same agreement is still part of the extended contract for FY2013, we were not overly concerned about premiums being potentially higher than absolutely needed given the fact that we were basically, because the proposals were all thrown out, in a critical situation to assure coverage continuation. If they are too high they will be returned under the current contract and we can continue in future RFPs the process of getting future quotes that are even more in line with actual claims experience.

With all of this background and built in protection for the Government, we were very surprised with this rush to pass a one year RFP process Bill that we very much believe will not save premium dollars and in fact we feel that few if any insurers would be comfortable even providing a quote given the very serious constraints in the Bill. If this happens, you would have a very uncompetitive result.

## 2. **Current Extended Contract Issues from Bill:**

a. The extended contract, as is the case with any mid plan year carrier changes, requires that if terminated mid-plan year, the current insurer will provide the new vender required information to allow appropriate payment of plan year deductibles, etc. The Bill seems to take issue with this on page 2 lines 25-26.

b. (REDACTED)

c. One additional concern is the estimated claim costs and premium refund estimates that are identified. Our actuarial assessments are somewhat different than these and my fear is that in some cases they have said Medical and Dental but only looked at Medical, etc.

(REDACTED)

3. **FEHB Program approach** (pages 4-6)

- a. The FEHB program rate submission process is very easy today because it has been in place for 52+ years. Additionally the carriers all have detailed historical claim information (not available for GovGuam yet) and enrollment changes from year to year are not dramatic, so establishing rates today is relatively easy from a carrier standpoint. This would not be the case the first year for Gov Guam.
- b. Additionally, based on Hay Group actual experience consulting with FEHBP over many years, we know that the actual renewal process begins for them in March of each year and concludes around October each year with final rates and plan designs to become effective January 1.
- c. One critical part of the FEHB program is that the FEHB staff actuaries do a careful review of each carrier and their submitted rates to be sure they meet all critical financial solvency and that the rates are reasonable given claim experience, etc. This is something that the Bill seems to over look as a critical part of the review process.

4. **Issues for Insurers which may make it difficult to respond to the new RFP** – (Section 2 Invitation to Bid)

- a. No RFP has gone out yet and the requirement in the Bill is to have coverage start no later than 45 days after 9/30/12. Our experience indicates clearly that few if any carriers (except maybe the incumbent) could turn a quote around in this time frame, especially since the plan designs are those outlined in the Bill and not just any plan the carrier wishes to offer.
- b. We have no idea what the contribution rates required on page 9 are derived from nor can one tell what relationship they have to employee contributions. Depending on the full rates quoted, the employees maybe paying more or less than they do currently for basically the same coverage
- c. Retiree versus Active rates - Page 10 Lines 1-2 - Rates for retirees over age 65 typically equal the same cost as an active employee because they are offset by Medicare payments. The 2.5X would apply only to retirees under age 65 or without Medicare eligibility. Thus this assumption might actually raise costs for retirees, especially those over age 65.
- d. Premium difference between 1500 and 2000 plan options - Page 10 lines 3-4- This is completely incorrect as a plan with a 2000 deductible versus one with a 1500 deductible at

worst case would only have a difference of 5% in premiums and nothing near the 200% in the Bill. The difference in deductible is only \$500/person/year. If these assumptions are used, again the possibility of over paying would be huge.

- e. New HSA Contribution - Page 10 Lines 5-8 - This addition of an HSA contribution from GovGuam is a new COST to the plan. It is a common design when the employer has lower deductibles (e.g. \$250, \$500, etc.) and is trying to incent employees to move to a much higher deductible option, which clearly does not apply to GovGuam because you already have high deductible options only. However, this would increase the Government costs by between \$3.5 million (if no one changed elections) to \$8.5 million if all employees moved to the 2000 plan. This is money that would then belong to the employees to be used for life for any medical costs not paid by the plan. Therefore this would be a real payment to employees whether they have claims or not and never refundable to the Government.
- f. (REDACTED)
- g. Participating Contract – Page 13 lines 9-14 – In cases where a carrier does not have the entire group under a single contract, we have never seen a situation where they have agreed to a participating contract as they are truly taking all the risk of getting all the high claim participants. Additionally, requiring a lower retention than required by the MLR rules also seems a request all carriers would not comply with again because of the risks they are taking on in the non-exclusive nature of this Bill.

We submit these comments at your request and hope that they help all to better understand today's insurance market for large groups and that GovGuam continues to find the best way to solicit annual rates and coverage without disadvantaging either the Government nor the employees.

Sincerely,

*Marie R. Dufresne*

Leonardo M. Rapadas  
*Attorney General*



Philip J. Tydingco  
*Chief Deputy Attorney General*

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**OFFICE OF THE ATTORNEY GENERAL**

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October 3, 2012

Honorable Vicente (ben) C. Pangelinan  
Chairman, Committee on Appropriations, Taxation,  
Public Debt, Banking, Insurance, Retirement, and Land  
I Mina' Trentai Unu Na Liheslaturan Guåhan  
324 West Soledad Avenue  
Suite 101  
Hagåtña, Guam 96910

**Re: Review of Bill No. 513-31 (COR): An Act to Provide Health Insurance to Government of Guam Employees and Retirees for Fiscal Year 2013**

Dear Chairman Pangelinan and Honorable Senators:

Buenas yan hafa adai! As was noted by the Office of the Attorney General at the public hearing on Bill 513-31 held last week, and in light of problems surrounding the procurement of health insurance coverage, the intent of the bill in streamlining the process and looking to other models used by other employers like the Federal government that make multiple health insurance providers available to our government employees is certainly a laudable endeavor. We had intended to submit written testimony within the customary ten (10) days after a public hearing that is allowed for accepting written testimony on a bill. However, it came to our attention that Bill 513-31 was slated for consideration and voting in a legislative session to commence on Monday, October 1, 2012. As you may all recall, we admitted both at the public hearing held last week and in a meeting with Senator Ben Pangelinan and his staff in the early Monday morning of October 1, 2012 that our Office had not quite fully comprehended the various potential legal and practical concerns raised by the draft of Bill 513-31 heard at the public hearing; and now still in existence with the Substitute Bill 513-31 that we had also received at the same Monday morning meeting. Indeed, we had intended for this written testimony to include a request that the Legislature briefly delay consideration of, and voting on Bill 513-31 for a couple of weeks in order for there to be a mark-up meeting for this bill. That



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request has been made moot with the passing of Bill 513-31 by a 9 to 6 vote. Nonetheless, we still believe it is important that we transmit to your colleagues some of our comments and concerns about certain provisions and issues regarding Bill 513-31 in the event they were not addressed by the final passed version of Bill 513-31 that we had not received or reviewed.

Two days subsequent to Bill 513-31 being introduced a 5 GCA § 5425 (g) *automatic stay* was put into effect with regard to FY 2013 Group Health Insurance procurement, which is the subject matter of the bill. On September 19, 2012, Tokio Marine Pacific Insurance Ltd. and Calvo's Insurance Underwriters, Inc. filed an appeal with the Office of Public Accountability (OPA). The legal ramifications if the government of Guam tried to implement the provisions of Bill 513-13 while there is a pending procurement appeal and stay are uncertain at this time.

In the Intent Section of the bill, the federal Health Insurance Portability Act (HIPPA) guarantee renewability provision extension of existing agreements provision is inaccurately referred to as an "emergency procurement". Emergency procurement is defined 5 GCA § 5215.<sup>1</sup> HIPPA is not procurement. The federal HIPPA provision allows continuation of coverage until the procurement issues are resolved. It is an area where federal law preempts local law. It is under the federal law the Extension Agreements (one each for the HSA 2000 plan and the SC 1500 plan) are put into place. The Extension Agreements incorporate the already existing FY 2012 Group Health Insurance Contracts between the SelectCare and the government of Guam, and with a sixty (60) days notice of termination clause, remain in effect for FY 2013, until the government of Guam has a new FY 2013 agreement in place, or September 30, 2013, whichever is the earliest. The notice provisions of the Extension Agreements are contractual provisions and must be adhered to by the government of Guam and any legislation reducing or effecting such provisions would violate contractual rights and potentially be litigated as to the Organic Act and arguably the U.S. Constitution protection of such rights. The procurement process in the bill should permit time frames to permit the sixty (60) day notice to the current Group Health Insurance Provider.

Clarification of the role of the Chief Procurement Officer and "quorum of the Negotiation Team" is recommended. 4 GCA § 4302 (c) sets forth who the members of the Negotiating Team are. The replacement of the Director of DOA with the Chief Procurement Officer does not clarify if the Chief Procurement Officer is a voting or non-

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<sup>1</sup> It is not a new month to month procurement or an Emergency Procurement as defined in 5 G.C.A. §5215. Given the statutory and regulatory definition of, and other restrictions like the thirty day period placed upon the use of an emergency procurement, additional legal and practical hurdles may arise when applied to health insurance coverage for *utilization* by thousands of government of Guam employees and retirees throughout the fiscal year.

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voting member of the team, and whether or not the Director of DOA is still a member of the Negotiating Team or not. Although the Chief Procurement Officer "on behalf of the GGNT" is issuing the Invitation to Bid, with regard to special procurement in Bill 513, it appears that none of the traditional roles of the Chief Procurement Officer with regard to 5 GCA Ch 5 are in place, except reference to it being defined by 5 GCA § 5030 (c) and 5110 in the new Substitute Bill 513 § 2 (A). The Chief Procurement Officer in the GSA Invitation for Bid process includes AG Procurement Forms, General Terms and Conditions as well Special Terms and Conditions. It would add clarity to the Invitation for Bid process if the subject was clarified further. Additionally, § 2 (C) (3) and § 5 of the bill reference "presence of a quorum of the GGNT". Clarification of the specific number of members and whether the count of members present for the purposes of a quorum includes or excludes non-voting members is recommended.

Although not stated, the role of the Attorney General's Office in § 3 (H) and § 5 would be as a legal advisor only. In an administrative approval role the attorney becomes a witness as opposed to legal counsel. In procurements through GSA the Chief Procurement Officer has the administrative approval role and the Attorney General's Office provides legal information and guidance. The new Substitute Bill § 3 (H) places the Attorney General in a policy role of determining what revisions are in the best interests of the government, thus removing the Attorney General from his role as legal advisor. The GNNT appears to be in the policy role with regard to this procurement, and this determination should be with the GNNT. A meeting of the GGNT will need to be noticed and held on the issue. Section 3 (H) also includes a time frame of October 20, 2012 for the new Invitation for Bid accompanying contract in final form and written report to the legislature, which may not be in keeping with realistic time frames for the process.

The attorney client privilege is waived in § 2 (B). This waiver should not include representing the government of Guam in a protest appeal to the Office of Public Accountability or the court.

Bill 513 states the Open Government Law will apply to all GGNT meetings. The Open Government law requires public notice of five (5) working days and forty eight (48) hours. This could make the short time lines difficult to meet, especially the requirements of § 5. If questions cannot be answered at the pre-bid meeting and GNNT is required to approve additional responses to questions presented at the pre-bid meeting, this would require another GGNT meeting. Before another GNNT meeting is held, the Open Government Law requires another five (5) days and forty eight (48) hours public notice of the meeting. Failure to meet the Open Government Law requirements can void the actions in the meeting and can end up voiding *ab initio* the whole procurement.

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In § 3 (A) there is mention of provisions in excess of the floor provision in the procurement (Exhibit R Exclusion provisions the providers may include). It is not clear why the submittal in excess of the floor in the sealed bid is subject "to approval" as opposed to being at the bidder's option as part of its bid, since the bidders are opting to include as covered items that they are not required ( listed exclusion in Exhibit R) in their bid. In order for the GGNT to approve requests the GNNT would need to meet on the issue(s).

Section 4 should clarify that § 5 GCA § 5201 (g) does not apply to the procurement. The term "Responsive Bidder" is defined in 5 GCA § 5201 (g). The bill in § 4 on page 10 replaces that definition with the items set forth in § 4, and also replaces the standard GSA IFB package with what is set forth in § 3. Again clarification as to the non-application of Guam Procurement Laws and Regulations to the procurement would prevent potential confusion on the issues.

Section 5 should delete reference to "contractual miscellaneous provisions". Substitute Bill 513 deletes mention of "contractual miscellaneous provisions that was present in the prior § 3 (H) and includes in § 3 (I) (1) that "a uniform contract" is to be executed by all prospective offerors. The contracts should be same for all bidders except the names and rates changing.

There currently is no flexibility for the Chief Procurement Officer to make written determination in the procurement process as provided in Guam Procurement Laws and Regulations, and/or the GNNT to make decisions except to those expressly stated in the bill. In the event the stated time frames and processes are not met, there could be procurement issues that arise.

As alluded to earlier in this letter and at the Monday morning meeting held with Senator Ben Pangelinan and his staff, the legal ramifications if the government of Guam tried to implement the provisions of Bill 513-13 while there is a pending procurement stay and appeal remain uncertain at this time. This is to say that we have not been able to determine whether Bill 513-31 can be legally implemented for the procurement of health insurance for FY2013 when there is an appeal and stay of procurement of the same subject matter services and for the same time period. Now, if there were no procurement protest appeal that stayed the procurement of health insurance for FY 2013 and assuming other legal and practical issues raised about Bill 513-31 were resolved, or if the government of Guam prevails (wins) in the protest before the OPA and there are no further appeals and stays before the courts, then the manner and form of procuring multiple health insurance providers contemplated by Bill 513-31 could be implemented subject to the 60 day termination clause of the Extension Agreements. However, if the

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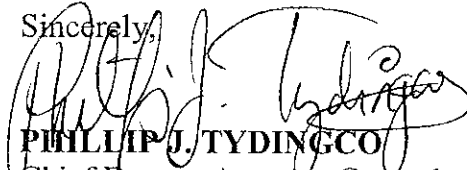
Page 5

parties who protested were to succeed with their appeal, there also arises an uncertainty whether the government of Guam must procure under the procurement law provided for in Bill 513-31 or under the procurement law and rules that existed before Bill 513-31 became law.

In any event, there is presently health insurance coverage for the employees and retirees of the Government of Guam because last year's health insurance contract was continued through the Extension Agreements up to one (1) year under HIPPA for Fiscal Year 2013.

Finally, we appeal to you and your colleagues of the Guam Legislature to consider crafting legislation, if not for FY 2013 then for FY 2014, that provides for an expedited and final procurement protest process as had been done for ARRA funded procurement. We make this request due in part to the competitive and controversial nature of health insurance coverage these past couple of years. This is because the negotiations and/or procurement of FY 2014 health insurance coverage for thousands of government of Guam employees and retirees customarily begins in January. Any protests thereafter are not likely to be resolved under Guam's current protest laws and rules before the beginning of FY 2014 (October 2013), especially if the litigation becomes protracted. Furthermore, the HIPPA renewability option will no longer be available to the government of Guam. Therefore, we respectfully ask that our request be considered and acted upon.

Sincerely,



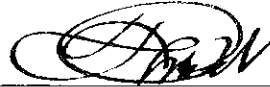
**PHILLIP J. TYDINGCO**  
Chief Deputy Attorney General

cc: Attorney General  
All Senators of Guam Legislature

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (SECOND) Regular Session

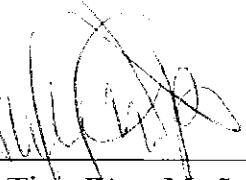
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 513-31 (COR), "AN ACT TO PROVIDE HEALTH INSURANCE TO GOVERNMENT OF GUAM EMPLOYEES AND RETIREES FOR FISCAL YEAR 2013.", was on the 1<sup>st</sup> day of October, 2012, duly and regularly passed.




Judith T. Won Pat, Ed.D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at  
6:25 o'clock P.M.



Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

**VETO**

EDWARD J.B. CALVO  
*I Maga'lahaen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2012 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that Substitute Bill No. 513-31 (COR), "AN ACT TO PROVIDE HEALTH INSURANCE TO GOVERNMENT OF GUAM EMPLOYEES AND RETIREES FOR FISCAL YEAR 2013.", was on the 1<sup>st</sup> day of October, 2012, duly and regularly passed.

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Judith T. Won Pat, Ed.D.  
Speaker

Attested:

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Rory J. Respicio  
Acting Legislative Secretary

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This Act was received by *I Maga'lahen Guåhan* this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at  
\_\_\_\_\_ o'clock \_\_\_\_\_M.

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Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

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EDWARD J.B. CALVO  
*I Maga'lahen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

***I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN***  
**2012 (SECOND) Regular Session**

**Bill No. 513-31 (COR)**

As substituted by the Committee on Appropriations,  
Taxation, Public Debt, Banking, Insurance, Retirement, and Land;  
and amended on the Floor.

Introduced by:

V.C. Pangelinan  
Dennis G. Rodriguez, Jr.  
J. T. Won Pat, Ed.D.  
B. J.F. Cruz  
T. R. Muña Barnes  
R. J. Respicio  
J. P. Guthertz, DPA  
T. C. Ada  
Adolpho B. Palacios, Sr.  
V. A. Ada  
F. F. Blas, Jr.  
Chris M. Dueñas  
M. Silva Taijeron

**AN ACT TO PROVIDE HEALTH INSURANCE TO  
GOVERNMENT OF GUAM EMPLOYEES AND  
RETIREEES FOR FISCAL YEAR 2013.**

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

1       **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
2 finds that the FY 2013 Government of Guam Health Insurance Program  
3 (GHIP) procurement is perpetually continued with the existing insurance  
4 company at FY 2012 rates due to protests and subsequent cancellation of  
5 Procurement No. DOA/HRD-RFP-GHI-13-001. A reissuance of another  
6 Request for Proposal (RFP) under identical rules, or in the absence of more  
7 particular rules, requires a longer protracted process that will prolong the

1 non-competitive perpetual continuation with the existing insurance company  
2 at FY 2012 rates.

3 *I Liheslaturan Guåhan* finds that the initial protest filed in the FY  
4 2013 GHIP procurement by TakeCare Insurance occurred on August 8,  
5 2012. On August 10, the Director of Administration solicited an extension of  
6 the current GHIP contract at the current premiums with Calvo's Selectcare  
7 for up to twelve (12) months citing the guaranteed renewability provisions in  
8 the Health Insurance Portability and Accountability Act (HIPAA) for  
9 employers. Calvo's Selectcare responded affirmatively to the request on  
10 August 16, 2012, and coverage has been extended to cover October 2012 at  
11 the current rates. Over one (1) month after its initial filing, the TakeCare  
12 Insurance (TakeCare) protest was accepted by the government of Guam  
13 Negotiations Team (GGNT), which requires the cancellation and re-  
14 solicitation of the FY 2013 GHIP contract.

15 The basis for the decision of the Negotiating Team to cancel this  
16 solicitation was (1) the failure of the government to follow the General  
17 Procedures set out in the Request For Proposals DOA/HRD-RFP-GHI-13-  
18 001, beginning at page 17, Section III; more specifically, the failure of the  
19 government to determine both the responsiveness of proposals and the  
20 qualification of proposals during Phase I of the Proposal Evaluation and  
21 Negotiation Procedure, as required by the Request for Proposals; and (2) the  
22 release of a draft copy of the Evaluation Memorandum to only two (2)  
23 offerors, to the detriment of other offerors.

24 *I Liheslaturan Guåhan* finds that invoking the HIPAA guaranteed  
25 renewability provision *does not* justify or supersede local procurement law  
26 and thus is an emergency procurement based on Guam law. Emergency  
27 procurement of medical and dental insurance is costly and inefficient and is



1 not the preferred method of securing insurance for the employees and  
2 retirees of the GHIP, but the temporary renewal of the GHIP contract with  
3 Calvo's Selectcare may subject government employees and retirees to lose  
4 credit for any payments toward deductibles when a new contract is procured  
5 due to the undocumented and unclear method of determining how  
6 deductibles will be handled.

7 *I Liheslaturan Guåhan* finds that the FY 2013 GHIP Procurement No.  
8 DOA/HRD-RFP-GHI-13-001 resulted in very competitive proposals from  
9 Island Home Insurance (Staywell), SelectCare, TakeCare and Aetna  
10 International Insurance, represented by Netcare Life and Health Insurance  
11 (Netcare).

12 All proposals would give the government and its employees and  
13 retirees a significant reduction in premiums than the current carrier's  
14 proposed rates and might have allowed government of Guam employees and  
15 retirees the right to choose from more than one (1) insurance option.

16 *I Liheslaturan Guåhan* finds that the most recent medical and dental  
17 claims submitted by Calvo's Selectcare to *I Liheslaturan Guåhan* on August  
18 14, 2012 contain all paid claims between October 1, 2011 and June 30, 2012,  
19 or nine (9) months of actual data for the current FY2012 contract. The  
20 Office of Finance and Budget (OFB) performed an analysis of the submitted  
21 data using insurance industry standard underwriting tools and concluded that  
22 the GHIP is projected to overpay premiums totaling more than Ten Million  
23 Dollars (\$10,000,000) above the cost of services provided for the second  
24 (2<sup>nd</sup>) year in a row according to Participating Experience Contract standards.

25 *I Liheslaturan Guåhan* finds that the actual loss ratio for FY 2011  
26 equaled sixty percent (60%) and the projected loss ratio for FY 2012 is

1 seventy percent (70%). Both loss ratios are far below the eighty-five percent  
2 (85%) threshold required in the Section 2718 provision of the PPACA.

3 *I Liheslaturan Guåhan* finds that the government of Guam is *not* in a  
4 surplus cash position where it can afford to continue to overpay annual  
5 medical and dental premiums in excess of Ten Million Dollars  
6 (\$10,000,000) a year. This takes income out of government employees' and  
7 retirees' pockets every pay period, creating hardship for families, as well as  
8 presenting an unnecessary financial burden on the government.

9 *I Liheslaturan Guåhan* finds that the optimal approach for the GHIP  
10 to purchase coverage for its eligible employees and retirees is to use health  
11 insurance underwriting rating tools and the historical claims data to develop  
12 the required projected premiums for the GHIP at an eighty-five percent  
13 (85%) loss ratio.

14 *I Liheslaturan Guåhan* finds that upon the direction of *I Liheslaturan*  
15 *Guåhan*, the OFB utilized health insurance industry standard methodologies  
16 and tools with the most recent twelve (12) months of claims data and trended  
17 the data for fifteen (15) months, which resulted in total required premiums of  
18 Sixty-Five Million Two Hundred Eleven Thousand Six Hundred Seventy-  
19 Four Dollars (\$65,211,674) for the existing medical and dental plans for FY  
20 2013.

21 *I Liheslaturan Guåhan* finds that the projected required premium for  
22 FY 2013 results in a savings of Eight Million Three Hundred Ninety-Four  
23 Thousand Five Hundred Thirty-Seven Dollars (\$8,394,537) when compared  
24 to the current FY 2012 contract.

25 *I Liheslaturan Guåhan* further finds that due to the urgency of time to  
26 complete the FY 2013 GHIP procurement, a simplified procurement process  
27 is required. On August 22, 2012, a roundtable discussion was held to discuss

1 the procurement of medical and dental insurance with members of *I*  
2 *Liheslaturan Guåhan*, Staywell, TakeCare, Netcare and Calvo’s Selectcare.  
3 The discussion focused in depth on the procurement process used for the  
4 Federal Employees Health Benefits Plans (FEHB). Both TakeCare and  
5 Calvo’s Selectcare discussed the ease of the FEHB process with respect to  
6 submitting annual pricing proposals for covering federal employees and  
7 annuitants.

8 *I Liheslaturan Guåhan* finds that the FEHB procurement resembles a  
9 sealed bid process where pricing proposals are submitted by each eligible  
10 offeror and accepted unconditionally if no objectionable pricing assumptions  
11 or obvious data errors are detected by the Office of Personnel Management  
12 contract specialists and its actuaries. The basis of choice available to federal  
13 employees is determined by the price and perceived quality of the product  
14 and service offered by each vendor. This type of arrangement promotes  
15 maximum competition resulting in the best price and products for the FEHB.

16 Dr. Robert E. Moffit, a senior fellow in domestic and economic policy  
17 studies at the Heritage Foundation who specializes in health care, cites the  
18 FEHB program as “historically achieving superior performance in cost  
19 control” by incorporating “fundamental market principles of real consumer  
20 choice, genuine competition, and light and reasonable regulation,” the result  
21 of which is “to deliver high quality health care and high levels of consumer  
22 satisfaction.”

23 *I Liheslaturan Guåhan* finds that the resulting financial burden to the  
24 government of Guam, and its employees and retirees, resulting from  
25 extending the FY 2012 GHIP benefits and rates is unacceptable and requires  
26 *I Liheslaturan Guåhan* to intercede by introducing a solution that (1) lowers  
27 the current cost of the GHIP contract; (2) provides multiple choices of

1 insurance providers; and (3) does *not* present opportunities to continue to  
2 delay the GHIP procurement through protests.

3 *I Liheslaturan Guåhan* further finds that an invitation to bid that  
4 requires all bidders to submit its best and final offer at a sealed bid opening  
5 is the most prudent and best method to award GHIP contracts for FY 2013.  
6 There is less than one (1) week before the end of the current GHIP contract  
7 and, therefore, restarting the existing procurement process is futile to  
8 achieve a realistic solution that provides lower cost health care and more  
9 choices to GHIP employees and retirees.

10 *I Liheslaturan Guåhan* finds that the FEHB uses a similar process to  
11 the solution presented and *I Liheslaturan Guåhan* is committed to  
12 implementing fundamental market principles of real consumer choice,  
13 genuine competition, and light and reasonable regulation as means to an  
14 expedient and market driven procurement of medical and dental insurance in  
15 FY 2013.

16 **Section 2. Invitation to Bid for the Government of Guam’s Group**  
17 **Health Insurance Program for Fiscal Year 2013.** Notwithstanding any  
18 other provision of law, the new or reissued solicitation procurement of  
19 medical and dental insurance for government of Guam employees and  
20 retirees for Fiscal Year 2013 (FY 2013) *shall* conform to the competitive  
21 sealed bidding procedures set forth in this Act.

22 (A) the Chief Procurement Officer of the government of  
23 Guam (CPO), as defined by Title 5 GCA, §§ 5030(c) and 5110, *shall*  
24 serve as Chairperson of the Government of Guam Health Insurance  
25 Negotiating Team (GGNT). The CPO, on behalf of the GGNT, *shall*  
26 issue an invitation to bid (ITB) for medical and dental insurance for

1 government of Guam employees and retirees immediately for FY  
2 2013.

3 (B) Any new or reissued solicitations for GHIP FY 2013  
4 medical and dental insurance, *shall* only be by ITB pursuant to the  
5 provisions of this Act.

6 (C) All actions related to the ITB *shall* occur in meetings  
7 announced by the CPO and must comply with the Open Government  
8 Law of Guam. For purposes of this Act, all meetings of the GGNT  
9 *shall* be deemed special meetings of a public agency for which notice  
10 *shall* be provided pursuant to Title 5 GCA, § 8107(b); and which *shall*  
11 be open meetings pursuant to Title 5 GCA, § 8103. A recording *shall*  
12 be made of all meetings of the GGNT, which *shall* be further  
13 documented by public minutes. No actions related to the ITB shall be  
14 considered privileged, including legal advice provided to the GGNT  
15 or CPO. The ITB for FY 2013 *shall*:

16 (1) solicit medical and dental insurance for the period  
17 starting *not more than* forty-five (45) days after the award of  
18 contracts and ending September 30, 2013;

19 (2) be announced in publications of general circulation  
20 in Guam, but *not* be required to be announced in top  
21 publications nationally and in leading publications  
22 internationally; and

23 (3) require all responses to the ITB by prospective  
24 bidders be submitted at a predetermined meeting date and time,  
25 *no later than* ten (10) days after the initial publication of the  
26 solicitation of the ITB. At the same meeting, the bids will be  
27 unsealed by the CPO in the presence of a quorum of the GGNT

1 and the names of all bidders and the amounts of their bids *shall*  
2 be entered in the minutes. The GGNT *shall* unconditionally  
3 accept all bids and award a contract to all bidders that meet the  
4 requirements in Section 4 of this Act.

5 **Section 3. Invitation to Bid Requirements.** Notwithstanding any  
6 other provision of law, the procurement of medical and dental insurance for  
7 government of Guam employees and retirees for FY 2013 *shall* conform to  
8 the requirements set forth in this Section.

9 (A) The medical and dental plans offered by all bidders *shall*  
10 provide the same benefits and levels of coverage consistent with the  
11 Schedules of Benefits previously defined in Exhibit R of Procurement  
12 No. DOA/HR-RFP-GHI-13-001, inclusive of the Wellness Benefit  
13 that meets the requirements outlined in Exhibit 2 of this Act. Bidders  
14 may opt to cover items that are listed as exclusions in Exhibit R of  
15 Procurement No. DOA/HRD-RFP-GHI-13-001. A formal request to  
16 cover any excluded items *shall* be included as part of the sealed bid  
17 and are subject to the approval of the GGNT.

18 (B) The medical and dental plans *shall* use the following  
19 subscriber tiers and weighting of premiums:

- |    |                                     |     |
|----|-------------------------------------|-----|
| 20 | (1) Employee/Retiree Only           | 1.0 |
| 21 | (2) Employee/Retiree and Spouse     | 2.2 |
| 22 | (3) Employee/Retiree and Child(ren) | 1.8 |
| 23 | (4) Employee/Retiree and Family     | 3.0 |

24 (C) The monthly government contribution for the medical  
25 and dental plans *shall* be applied uniformly to all bidders awarded a  
26 contract and *shall* equal the following amount by tier by plan by  
27 subscriber. If any plan's monthly government contribution in any tier

1 exceeds the total monthly premium for said tier then the monthly  
2 government contribution *shall* decrease for said tier such that the  
3 government contribution for said tier equals the total monthly  
4 premium.

5 (1) Employee/Retiree Only

6	i. HSA2000	Active	\$131.83
7	ii. 1500 Deductible	Active	\$200.79
8	iii. HSA2000	Retiree	\$343.34
9	iv. 1500 Deductible	Retiree	\$623.78
10	v. Dental	Active & Retiree	\$17.73

11 (2) Employee/Retiree and Spouse

12	i. HSA2000	Active	\$210.94
13	ii. 1500 Deductible	Active	\$390.85
14	iii. HSA2000	Retiree	\$676.25
15	iv. 1500 Deductible	Retiree	\$1321.45
16	v. Dental	Active & Retiree	\$21.12

17 (3) Employee/Retiree and Child(ren)

18	i. HSA2000	Active	\$172.58
19	ii. 1500 Deductible	Active	\$319.80
20	iii. HSA2000	Retiree	\$553.29
21	iv. 1500 Deductible	Retiree	\$1,081.20
22	v. Dental	Active & Retiree	\$17.29

23 (4) Employee/Retiree and Family

24	i. HSA2000	Active	\$287.64
25	ii. 1500 Deductible	Active	\$532.99
26	iii. HSA2000	Retiree	\$922.12
27	iv. 1500 Deductible	Retiree	\$1801.99

v. Dental Active & Retiree \$28.80

(D) The total monthly premium rates for retirees for all plans shall equal exactly 2.5x the premium rates of active employees.

(E) The total monthly premiums of the 1500 Deductible plan shall equal exactly 2x the premium rates of the HSA2000 plan.

(F) The government shall contribute Seven Hundred Fifty Dollars (\$750) to single subscribers [tier] and One Thousand Five Hundred Dollars (\$1500) for all other subscribers [tiers] who elect the HSA2000 plan, provided the subscriber has a Health Savings Account pursuant to 26 U.S.C. Section 223(d), as amended. The government shall distribute the contribution amount to eligible Health Savings Accounts in two (2) equal installments, with a pay date thirty (30) days after the start of the plan year and a pay date one hundred eighty (180) days after the start of the plan year.

(G) The calculation of medical and dental premiums in Section 4(D) of this Act shall use the July 2012 enrollment data submitted as an official message to *I Liheslaturan Guåhan*, registered as Document 31GL-12-1751. The SC2000 plan shall be the equivalent of the HSA2000, and the SC1500 plan shall be the equivalent of the 1500 Deductible for the purposes of calculating premiums in the ITB.

(H) The Group Health Insurance Agreements (Contracts) for the HSA2000, 1500 Deductible and Dental plans shall be exactly the same as the FY 2012 Contracts with revisions deemed, by the AGO, in the best interest of the government, its employees and retirees, for all successful bidders, with the exception of a separate Article for each bidder's medical and dental premium rates submitted as part of the bid process outlined in Section 2(C)(3) of this Act. A written report of the



1 revisions deemed in the best interest of the government by the AGO  
2 *shall* include the justification for such changes, and *shall* be submitted  
3 by the AGO to the Speaker of *I Liheslaturan Guâhan no later than*  
4 when the Contracts are finalized. The Contracts *shall* be finalized by  
5 the AGO *no later than* October 20, 2012, and included in the ITB.  
6 The contract *shall* include a one (1) page addendum for bidders to  
7 submit that agree to a Participating Experience Contract that requires  
8 eighty-six percent (86%) of premiums to be spent on medical and  
9 dental claims pursuant to Section 4(F).

10 (I) The ITB package *shall*, at the minimum, contain the  
11 following information:

12 (1) Copy of a uniform contract to be executed by all  
13 prospective bidders who participate in the provision of medical  
14 and dental insurance to the government;

15 (2) Electronic Microsoft Excel files containing the FY  
16 2012 GHIP Claims data for the period October 1, 2012 to June  
17 30, 2012 submitted to the Department of Administration and  
18 Office of Finance and Budget on August 14, 2012;

19 (3) Schedule of Benefits of the dental and medical  
20 plans previously identified as Exhibit R of Procurement No.  
21 DOA/HRD-RFP-GHI-13-001, inclusive of the wellness benefit  
22 that meets the requirements outlined in Exhibit 2; and

23 (4) The Microsoft Excel template “Exhibit 1 –  
24 Required Premium Calculation” for the calculation of the  
25 premium by prospective bidders. Exhibit 1 of this Act *shall* be  
26 the template included in the ITB.

27 (5) No bid bond shall be required.

1 (J) The financial solvency of all bidders *shall* be subject to  
2 the review of the Office of Banking and Insurance Commissioner  
3 (Commissioner), with the exception of those companies who have  
4 already been deemed financially sound by the Commissioner in July  
5 2012, as part of Procurement No. DOA/HRD-RFP-GHI-13-001.

6 (K) Bidders awarded a contract *shall* file the health insurance  
7 policy with the Commissioner *at least* fifteen (15) days prior to the  
8 policy's effective date and pay the applicable fees.

9 **Section 4. Invitation to Bid Responsiveness.** Notwithstanding any  
10 other provision of law, all bids submitted for medical and dental insurance  
11 for government of Guam employees and retirees for FY 2013 conforming to  
12 the requirements set forth in this Section *shall* be deemed responsive upon  
13 compliance with the following:

14 (A) All bidders *shall* provide a copy of a current Certificate  
15 of Authority issued by the Commissioner at the time of bid  
16 submission.

17 (B) In the event any risks for health is reinsured or  
18 transferred by the bidder to a reinsurance company, the reinsurer that  
19 assumes the risk *shall* also provide a copy of a current Certificate of  
20 Authority to transact reinsurance business on Guam.

21 (C) All bidders, to include agents, reinsurers and  
22 underwriters, must submit a copy of a current Guam business license.

23 (D) The total annual medical and dental premium calculation  
24 of the bid *shall not* exceed Sixty-Nine Million One Hundred Twenty-  
25 Four Thousand Three Hundred Seventy-Four Dollars (\$69,124,374)  
26 for all carriers for twelve (12) months. The premium calculation *shall*  
27 be derived by multiplying the total number of subscribers by twelve

1 (12) by the equivalent submitted plan rates. Exhibit 1 of this Act *shall*  
2 be used to calculate the premiums and identify whether the rates  
3 conform to the requirements in Section 3(B), (D) and (E). In the event  
4 that all bids exceed the amount specified in this Subsection, then the  
5 solicitation *shall* be cancelled.

6 (E) All bidders *shall* submit signed Contracts for the  
7 HSA2000, 1500 Deductible and Dental plans as part of its submitted  
8 sealed bid package.

9 (F) Bidder *shall* declare whether it agrees to a Participating  
10 Experience Contract that requires eighty-six percent (86%) of  
11 premiums to be spent on medical and dental claims. Bidders *not*  
12 agreeing to a Participating Experience Contract *shall* by default be  
13 required to reconcile premiums and claims pursuant to PPACA  
14 Section 2718 MLR standards.

15 **Section 5. Inquiries of Prospective Bidders.** All prospective bidders  
16 *shall* submit in writing all inquiries relating to the interpretation and  
17 technical details of the ITB at a pre-bid conference meeting exactly five (5)  
18 days after the ITB issuance.

19 At the same meeting, the inquiries will be received by the CPO in the  
20 presence of a quorum of the GGNT. To the maximum extent practicable, all  
21 inquiries will be answered by the CPO and Commissioner at the meeting. In  
22 the event the CPO or Commissioner are unable to provide an answer to an  
23 inquiry at the meeting, the CPO and Commissioner *shall* respond within  
24 forty-eight (48) hours of the meeting, to include contractual miscellaneous  
25 provisions approved by the GGNT and the AGO. Copies of all inquiries and  
26 responses *shall* be delivered to all prospective bidders.

1           **Section 6. Binding Offer.** After bid opening, a bidder *may not* change  
2 the price or any other provision of the bid in a manner prejudicial to the  
3 interests of the governmental body or fair competition. An award on the bid  
4 is a binding contract with terms and conditions that *do not* vary from the  
5 terms and conditions of the invitation and addenda.

6           **Section 7. Non-Exclusive Awards.** The award(s) resulting from the  
7 solicitation provided for in this Act *shall* be non-exclusive award(s) for  
8 health insurance coverage for qualified active employees and qualified  
9 retirees of the government of Guam, who *shall* have a choice of one (1) of  
10 the insurers receiving an award for FY 2013 for health insurance.

11           **Section 8. Severability.** If any provisions of this Act or the  
12 application thereof to any person or circumstance is held invalid, such  
13 invalidity *shall not* affect any other provision or application of this Act  
14 which can be given effect without the invalid provision or application, and to  
15 this end the provisions of this Act are severable.

16

# Exhibit 1 - Required Premium Calculation Government of Guam Health Insurance Program FY2013

Instructions: Enter single rate for 2000HSA Plan in cell [K13] and single rate for Dental in cell [K24]

[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]	[K]	[L]	[M]	[N]
FY	MONTH	FY2012											
		July											
			EE	EE+SP	EE+CHILD(REN)	EE+FAMILY	TOTAL SUBS	TOTAL MEMS		EE	EE+SP	CHILD(REN)	EE + FAMILY
[11]	MEDICAL		6,596	961	1,736	1,774	11,067	21,485					
[12]	SC2000		2,732	276	591	667	4,266	7,927	HSA2000	\$0.00	\$0.00	\$0.00	\$0.00
[13]	ACTIVE		1,909	182	553	610	3,254	6,598	A	\$0.00	\$0.00	\$0.00	\$0.00
[14]	RETIREE		823	94	38	57	1,012	1,329	R	\$0.00	\$0.00	\$0.00	\$0.00
[15]	SC1500		3,864	685	1,145	1,107	6,801	13,558	SC1500	\$0.00	\$0.00	\$0.00	\$0.00
[16]	ACTIVE		2,124	317	984	942	4,367	9,993	A	\$0.00	\$0.00	\$0.00	\$0.00
[17]	RETIREE		1,740	368	161	165	2,434	3,565	R	\$0.00	\$0.00	\$0.00	\$0.00

FY	MONTH	FY2012											
		July	EE	EE+SP	EE+CHILD(REN)	EE+FAMILY	TOTAL SUBS	TOTAL MEMS		EE	EE+SP	CHILD(REN)	EE + FAMILY
[24]	DENTAL		5,216	666	1,618	1,612	9,112	18,540	DENTAL	\$0.00	\$0.00	\$0.00	\$0.00

## PROJECTED MEDICAL & DENTAL PREMIUM

	EE	EE+SP	CHILD(REN)	EE + FAMILY	TOTAL
[29]	MEDICAL				
[30]	2000HSA				
[31]	ACTIVE	\$0	\$0	\$0	\$0
[32]	RETIREE	\$0	\$0	\$0	\$0
[33]	1500 DEDUCTIBLE				
[34]	ACTIVE	\$0	\$0	\$0	\$0
[35]	RETIREE	\$0	\$0	\$0	\$0
[36]	TOTAL MEDICAL	\$0	\$0	\$0	\$0
[38]	TOTAL DENTAL	\$0	\$0	\$0	\$0
[40]	TOTAL MEDICAL & DENTAL	\$0	\$0	\$0	\$0

## Exhibit 2

**WELLNESS & FITNESS BENEFIT must include at least the following:**

- A) Cardiovascular Training;
- B) Resistance and Strength Training;
- C) Flexibility Training conducted by certified personal trainers;
- D) Regular Group Exercise Classes with options to provide additional classes to organized groups of subscribers upon request;
- E) Monthly Nutrition Classes by certified nutritionists;
- F) Fitness Assessments including Body Mass Index (BMI) by certified personal trainers;
- G) Have the capacity to service large number of subscribers with fitness attendants available at all times to assist subscribers with Cardiovascular Machines, Circuit Weight Machines, and Free Weight Areas;
- H) Assistance to the physically impaired and meet the laws on equal access and comply with the Americans with Disability Act Regulations;
- I) Provide child care services to subscribers utilizing wellness program facilities;
- J) Hours of operation Monday through Sunday, except for holidays and special events.
- K) Free utilization of any gym facilities per member/per dependent per the plan year as an integral part of the wellness benefit.