



Republic of Palau

SOCIAL SECURITY ADMINISTRATION

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**OPERATIONAL RULES
AND PROCEDURES**
for the
SOCIAL SECURITY ADMINISTRATION
of the
REPUBLIC OF PALAU
Effective Date:
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PART I. GENERAL PROVISIONS

Section 101. Authority

The following rules and procedures are promulgated pursuant to and in accordance with RPPL No. 2-29, as amended by RPPL No. 3-64, as codified in Title 41 of the Palau National Code (hereinafter “PNC”) pursuant to § 711 and § 712 (d). These rules and procedures have been promulgated by the Republic of Palau Social Security Board (hereinafter “Board”) and shall have the force and effect of law. These rules and procedures shall be supplementary to 41 PNC, unless otherwise provided by the Board. **[Source 41 PNC § 711 and § 712(d)]**

Section 102. Purpose

The purpose of these operational rules and procedures is to ensure the efficient and economical operation of the Social Security Administration as a governmental administrative agency which is charged with the responsibility and duty of providing a compulsory, self-supporting, and self-financing national insurance system which is also known as the Social Security System. **[Source 41 PNC § 701]**

Section 103. To Whom Applicable

Unless contrary to the administration of the Social Security System, these operational rules and procedures are to be enforced by employees of the Social Security Administration (hereinafter “Administration”) of the Republic of Palau as they apply to all employers and employees who are covered by and subject to the provisions of 41 PNC. **[Source 41 PNC § 703]**

Section 104. Definitions

Unless otherwise provided, the definitions as set forth in 41 PNC § 702 are hereby incorporated in and made a part hereof by reference for all purposes. **[Source 41 PNC § 702]**

Section 105. Amendment

Any provision of these rules and procedures may be amended by a majority vote of the membership of the Board. However, the Board shall not take official actions that are contrary to these rules and procedures and then amend these rules and procedures to retroactively make such official action in accordance with these rules and procedures. **[Source 41 PNC § 711, § 712(d), & SSA By-Laws]**

Section 106. Sovereign Immunity

The Administration is a governmental administrative agency, that when acting on behalf of the National Government in its official capacity, is protected by the doctrine of sovereign immunity unless otherwise provided. **[Doctrine of Sovereign Immunity]**

Section 107. Record Keeping

The Administrator shall maintain records of all employees and of all contributors, including self-employed persons for a minimum of ten (10) years. The Administrator may maintain any record for more than ten (10) years when the Administrator finds that it is in the best interest of the System to maintain such records for purposes including, but not limited to, on-going or future legal actions, debt collection, settlement agreements, estate proceedings, or other necessary purposes. **[Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]**

Section 108. Funds

All funds received by the Administration shall be deposited on a daily basis. No funds shall be held overnight. For safety purposes, deposits made after 4:30 shall be accompanied by two (2) Administration employees. [Source SSA By-Laws]

Section 109. Discretion of the Administrator

The Administrator shall have the discretion to deviate from these rules and procedures as he or she deems necessary to best serve the interest of the Administration. In the event that the Administrator deviates from such rules and procedures, he or she shall so inform the Board in writing during the next regular meeting. In no way does this section approve any acts committed by the Administrator that are contrary to law. [Source 41 PNC § 724 & SSA By-Laws]

Section 110. Uniformity

All provisions of these rules and procedures shall be interpreted and applied in a uniform, nondiscriminatory manner. [Article IV, Section 5. ROP Constitution]

Section 111. Severability

If any provision of these rules and procedures or the application thereof to any employee or circumstance is held invalid, the invalidity does not affect other provisions or applications of these rules and procedures which can be given effect without the invalid provision or application, and to this end the provisions of these rules and procedures are severable. [General Provision]

Section 112. Effective Date

These rules and procedures shall take effect upon their approval by a majority vote of the Board of the Republic of Palau Social Security Administration. All actions prior to the effective date of these rules and procedures shall not be subject to these newly promulgated rules and procedures. [General Provision]

PART II. CONTRIBUTIONS

SUB-PART A: REMUNERATION

Section 201. Remuneration Defined

(a) Remuneration (salary or wages) as set forth in 41 PNC § 720(a)(21) shall be taxable regardless of what it is called by the employer or employee and shall include, but is not limited to, the following:

- Hourly or daily wages;
- Salaries;

- Bonuses or awards;
 - Sales commissions (on products, equipment, land, housing, insurance, etc.);
 - Shares of profits;
 - Back pay;
 - Pay advances;
 - Termination pay;
 - Tips; and
 - The value of food lodging provided, except in the case of household domestic workers and other employees required to accept lodging on the employer's business premise as a condition of employment and employees whose meals are provided at the employer's place of business for the employer's convenience.
- (b) When Received: Remuneration, in order to be taxable and credited to an employee's account must be actually or constructively paid to such employee.
- (c) Remuneration is deemed to be constructively paid when it is credited to the account of, or set aside for, an employee, so that it may be drawn upon by the employee at any time although not then actually received:
- (i) The remuneration must be credited to or set aside for the employee and must be made available without restriction so that it may be drawn upon at any time; or
 - (ii) The employer must intend to pay or set aside or to set aside or credit, the remuneration when due to the employee, and failure of the employer to credit or set aside the wages is due to clerical error or mistake in the mechanics of payment, and because of the clerical error or mistake the remuneration is not actually available at that time.
- (d) Remuneration earned before, but paid after the death of an employee shall be credited to the quarter in which the employee died. [41 PNC § 720(a)(21)]

Section 202. Maximum Remuneration

The maximum amount of remuneration received during a quarter from one employer by any one employee upon which contributions must be deducted and contributed to the Retirement Fund is three thousand dollars (\$3,000.00). [41 PNC § 742]

SUB-PART B: SELF EMPLOYED

Section 203. Determination of Self-employed

A self-employed person shall be presumed to be both their own employer and their own employee. This presumption is not rebuttable if the Administration determines that a person is self-employed. Factors, including but not limited to the following, may be considered in determining whether a person has self-employed status:

- The person makes a profit or suffers a loss depending on the success of the business venture;
- The person, if hired to complete a certain job, may be liable for damages if he or she quits the job before it is completed;
- The person works for a number of persons or firms at the same time;
- The person advertises to the general public or solicits others that he or she is available to perform services;
- The person pays their own expenses and has their own equipment and work place; and
- The person is a lessor who receives rent or other payment from a lessee.

A person who is determined by the Administration to be both their own employer and their own employee is liable to pay to the System, with respect to his or herself, both employer contributions and employee contributions and shall include his or herself in reports as required under 41 PNC § 745. [41 PNC § 741(a)]

Section 204. Self-employed With At Least One Employee

A self-employed person who has at least one employee, employed for wages, in a given quarter during the calendar year who receives remuneration from the self-employed person and has at least ten thousand dollars (\$10,000.00) in annual gross revenues, shall be presumed to receive as remuneration in any quarter twice the amount paid to the highest paid employee in that quarter subject to the quarterly maximum. This presumption is only rebuttable by clear and convincing evidence when a determination has been made by the Administration.

Example: An employer has three (3) employees which receive \$350, \$500, and \$625 in remuneration in a given quarter. The employer is assumed to be an employee so his or her remuneration will be twice the amount paid to the highest paid employee of that quarter. The highest paid employee receives \$625, so the employer is presumed to receive \$1,250 (\$625 multiplied by 2). The employer is required by law to report their wages as \$1,250.

A self-employed person under this section who has more than one business, for each of which separate quarterly reports are submitted, shall report his or herself at twice the wages of the highest paid employee of all the businesses and shall be included in the same report as the highest paid employee of that business. [41 PNC § 741(b)]

Section 205. Self-employed With No Other Employees

- (a) Remuneration: A self-employed person or corporation that has no employees in a given quarter that receives remuneration from the self-employer person or corporation and has at least ten thousand dollars (\$10,000.00) in annual gross revenues, shall be presumed to receive in any quarter remuneration of twenty-five (25%) of their gross revenue in the preceding calendar year. This presumption is only rebuttable by clear and convincing evidence when a determination has been made by the Administration.

Note: For a corporation, an officer located in the Republic of Palau shall be required to report under this provision. If there are no officers located in the Republic, any owner or shareholder located within the Republic may be reported.

- (b) Reporting: The self-employed person or corporation shall have one month from the end of the calendar year (December 31st) to file their Social Security contributions report. Any reports received after January 31st shall be deemed delinquent and shall be handled in the same manner as a private employer. The amount of annual gross revenues shall be determined from the information submitted to the Tax Office. This information shall be made available to the personnel of the Social Security Office under 41 PNC § 810(a).
- (c) Calculation: The method of calculating wages for self-employed persons or corporations that: (1) have no employees; and (2) made at least ten thousand dollars (\$10,000.00) in the previous year shall be calculated by multiplying the annual gross revenue by twenty five percent (25%), multiplying by twelve percent (12%), and then multiplying by four (4 quarters). [41 PNC § 741(c)]

Example: Gross Revenue is \$20,000
 \$20,000 x .25 = \$5,000 (max remuneration is \$3,000 (41 PNC § 742))
 \$3,000 x .12 = \$360 (amount to report each quarter)
 \$360 x 4 = \$1,440 (amount to report for the calendar year)
 Total amount of Social Security due for the calendar year: \$1,440

Section 206. Exceptions: Self-employed Retail Merchant, Farmer, Fisherman, & Taxi Driver

Notwithstanding the foregoing sections, a self-employed retail merchant with no employee who receives remuneration from his or herself with less than ten thousand dollars (\$10,000.00) of gross revenues in the preceding calendar year or a person working as a farmer, fisherman, or taxi driver, shall have the option to be covered by 41 PNC, provided that they maintain a minimum of three hundred dollars (\$300.00) in remuneration each quarter. [41 PNC § 741(d)]

SUB-PART C: EMPLOYEE CONTRIBUTIONS & STATUS

Section 207. Employee Contributions

All employees working in the Republic of Palau shall contribute to the Social Security Administration amounts equal to the percentages of remuneration received by the employee as provided in 41 PNC § 743 (the current percentage for 2001 to present being six percent (6%)).

Employee contributions payable shall be collected by the employer of the employee by deducting the amount of the contributions from each payment of remuneration.

Every employer required to deduct employee contributions is liable for their payment to the Board. The Board shall be indemnified (compensated for damage, loss, or injury suffered) from

the Retirement Fund against any claim or demand by any person for the amount of any such payment. [41 PNC § 743]

Section 208. Employer-Employee Relationship

- (a) Government Employer (ROP): The National Government of the Republic of Palau is an employer within the Republic. Payment is remitted bi-weekly.
- (b) Employer-Employee Relationship: An employer-employee relationship is assumed to be present in the following circumstances: (This presumption is not rebuttable.)

- (1) Officer of a Corporation: an officer of a corporation is an employee of a corporation, regardless of performance of services, provided that the wages received are for holding corporate office. A director is not an employee of a corporation. The Board of Directors is the governing body of a corporation and therefore is not subject to control by the corporation.
- (2) Employees Determined Under Common Law Rules: An individual is an employee if they are subject to control by the person for whom they render service (i.e., control of when, where, and how work is done).
- (3) Other factors which indicate a common law employer-employee relationship are:

- Training of wage earner;
- Hiring and supervising of assistants;
- Duration-continuing or recurring work even if services are rendered on a part-time or seasonal basis;
- Hours of Work-set by employer;
- Place of Work-set by employer;
- Order of Services-set by employer;
- Employer has the right to discharge employee;
- An employee is considered employed by the employer (employed-status);
- Requirement that a wage earner perform service personally;
- Payment for work on a time basis rather than by lump sum;
- Wage earner has little or no business expense;
- Wage earner has little investment in facilities or equipment;
- Either party can terminate the relationship without incurring liability; and
- Wage earner has no chance of making a profit or suffering a loss.

[41 PNC § 702(a)(8), (11), & (13)]

Section 209. Other Factors Determining Employee Status

If employee status is not clear under Section 208, other factors including, but not limited to the following may be considered in determining that a person is an employee under the usual common law rules applicable in determining whether an employer-employee relationship exists:

- (1) The person who one works for has the power to fire and/or hire them;
- (2) The person who one works for is required to follow that person's instructions or receives training from that person;
- (3) The person who one works for sets the hour's of work, the work schedule, or restricts one from working for other persons;
- (4) The person who one works for designates the location, place, or area of work;
- (5) The person who one works for provides one with tools, equipment, vehicles, and/or a place to work;
- (6) A person is paid by the hour, week, or month;
- (7) The person who one work's for pay's all or a portion of one's business or traveling expenses;
- (8) The person must do the work themselves (do not have the power to contract out or subcontract the work being performed);
- (9) In general, it is the right of the person one works for to direct and control one as to manner, time, and place of the work; and
- (10) Any other factors deemed appropriate by the Administrator.

A determination made by the Administrator, based on one or more of the above-mentioned factors that a person is an employee, is rebuttable only by clear and convincing evidence. This burden of proof lies with a person appealing a determination made by the Administration. A written determination regarding such matter shall be made available upon written request to the Administrator. [41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

Section 210. Family Employment

The existence of a family relationship does not preclude the possibility of an employee-employer relationship. The employee-employer relationship may be present under other sections of these rules and procedures, however, the employment must be documented and wages must be paid. [41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

Section 211. Independent Contractors

An independent contractor is a person who performs services for another person or entity under a contract or other agreement, with the terms spelled out such as duties, pay, the amount and type of work and other matters. An independent contractor is distinguished from an employee, who works regularly for an employer. The exact nature of the independent contractor's relationship with the party hiring him or her is vital because an independent contractor pays their own Social Security. Regardless of the agreement, factors that are indicative of true independence include, but are not limited to the following:

- (1) An independent contractor must be able to determine when and where work is performed;
- (2) An independent contractor must be able to work for others;
- (3) An independent contractor usually uses or provides their own equipment; and
- (4) An independent contractor usually faces liability under the contract or agreement.

Under certain conditions a person may be both an independent contractor and an employee. For this reason all areas and conditions of employment shall be scrutinized. The labeling of a person as an independent contractor or employee by any outside party shall not be definitive as to any determinations to be made by the Administration. [41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

Section 212. Part-Time Employment

Part-time employment is covered under 41 PNC unless it is not performed in the course of an employer's trade or business and does not exceed employment in more than one week in each calendar month of each quarterly reporting period. Otherwise, all part-time, temporary, seasonal, or intermittent employment is covered and shall be reported under 41 PNC. [41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]

Section 213. Factors Determining Employee Working In the ROP

Employee working in the Republic of Palau as set forth in 41 PNC § 702(a)(13) and § 703 means that the employee or the business enterprise in which the employee works maintains a physical presence in the Republic of Palau. Physical presence in the Republic of Palau includes, but is not limited to the following:

- Operating or establishing an office, store, restaurant, hotel, shop, factory, workshop, plant, warehouse, subsidiary, branch, or other such facility;
- Hiring, appointing, designating, or sending a representative, distributor, employee, or agent who is present in the Republic of Palau for more than thirty (30) days in any calendar year transacting business on behalf of the business enterprise;
- Undertaking building, construction, or assembly projects;
- Importing items for resale;
- Paying taxes to the Republic of Palau;
- Hiring employees in the Republic of Palau or to work in the Republic of Palau;
- Obtaining national or state business licenses;
- Performing any other such act or series of acts in the Republic of Palau which are sufficient to subject the business enterprise to the personal jurisdiction of the Courts of the Republic of Palau; and

- Any other factor that is deemed to show employment within the Republic of Palau.

A determination made by the Administrator, based on one or more of the above-mentioned factors that an employee is working within the Republic of Palau, is rebuttable only by clear and convincing evidence. This burden of proof lies with a person appealing a determination made by the Administration. A written determination regarding such matter shall be made available upon written request to the Administrator. **[41 PNC § 702(a)(8), (11), & (13) & U.S. IRS]**

SUB-PART D: EMPLOYER CONTRIBUTIONS

Section 214. Employer Contributions

All employers doing business in the Republic of Palau shall contribute to the Social Security Administration amounts equal to the percentage of remuneration paid by him or her to employees or, in the case of a self-employed person to whom 41 PNC § 741 (self-employed) applies, deemed to have been paid to him or her (the current percentage for 2001 to present being six percent (6%)).

Every employer doing business in the Republic of Palau is required to deduct Social Security tax from each wage earner and pay an equal amount to the Social Security Administration. If an employer has no eligible employees but has annual gross revenues in excess of ten thousand dollars (\$10,000.00), the employer must report his or herself. **[41 PNC § 744]**

Section 215. Employer Not Required to Pay

Employers shall not be required to pay contributions to Social Security when:

- (1) The business has no eligible employees and gross annual revenue is less than ten thousand dollars (\$10,000.00). However, the business owner/employer has the option to contribute to the Social Security System, provided that a minimum of three hundred dollars (\$300.00) in remuneration is reported by the employer each quarter;
- (2) Casual employment;
- (3) Employer paid with grants that are covered under treaty with the National Government expressly exempting liability to a specified degree; or
- (4) Employer of Domestic Helpers (household helpers); in other words, non-business household/domestic employers are exempt from reporting themselves.

[41 PNC § 741 & 743]

SUB-PART E: RECORDS

Section 216. Payroll Record Retention

Any employer subject to the provisions of 41 PNC shall be required to keep any records relating to the payment of Social Security including but not limited to contributions paid, payroll, and employee Social Security numbers for at least six (6) years. These records shall be kept in

English or Palauan and made available to the Administration at any time upon written request.
[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

Section 217. Audits

Under the direction of the Administrator, the Administration at any time may audit the records of any employer or of any self-employed person, to the extent that such audit has a bearing on the employer or the self-employed person's liability to pay contributions. These audits shall be conducted to determine the accuracy of Social Security Reports submitted and to ensure that every employee eligible for Social Security benefits is properly reported and that his or her contributions are paid in order to receive credit for retirement, disability, or in the case of death, survivor benefits.

- (1) Notice of Audit: When a notice of audit is sent to an employer, the employer shall comply with such request to audit and shall make all business records available to the Administration for such audit. If two (2) or more notices of audit go unanswered, the Administration, upon approval of the Board, may either issue a subpoena to force compliance, or audit the employer based on other records such as gross revenue tax. If there is no response by the employer after three (3) months, and all means of trying to contact the employer have failed, records shall be obtained from the Division of Revenue and Tax. If the Division of Revenue and Tax do not have records of the business, the matter shall be brought to the Administrator for a determination. If the Administrator determines that the business should be closed, a written determination shall be inserted into the audit file and the employer file stating the reasons for closure.
- (2) Audit Completion: Upon completion of any audit, the Administration shall grant an employer thirty (30) days to confirm or dispute audit findings. If an employer does not confirm or dispute the audit findings, in writing, within thirty (30) days, the Administration shall automatically confirm the findings of such audit. If the audit findings indicate that there are outstanding Social Security liabilities to be paid, the Administration shall notify the employer of such amounts in accordance with the collections procedure.
- (3) Audit Information Record Book: A record book containing each employer's name shall be maintained and kept current when any actions, audits or otherwise, are conducted with any employer. The date, purpose, and communication conveyed in each visit or phone conversation with any employer shall be recorded in the record book.

[Source 41 PNC § 801]

Section 218. Employer Account Numbers

- (1) Employer Account Number: The Social Security Administrator, or his or her designee, shall assign to each employer an account number.
 - (a) Palauan Citizens: Every *business* that is solely owned by Palauan citizens must thoroughly complete the Employer Account Number application and provide any

other information as required by the Administration. Every **corporation** that is solely owned by Palauan citizens must thoroughly complete the Employer Account Number application and provide the Corporate Charter, By-Laws, and any other information required by the Administration.

- (b) Foreign Businesses: Every **business or corporation** that has foreign ownership must thoroughly complete the Employer Account Number application and provide any other information as required by the Administration including, by not limited to, the Foreign Investment Approval Certificate, Corporate Charter, By-Laws, and any other information required by the Administration.
- (2) Existing Debt: Any employer or owner with an existing or past business that owes outstanding Social Security liabilities shall not be eligible to obtain another Employer Account Number for any new business entity without first executing a payment agreement and making payment on time for at least six (6) months, paying all existing prior liabilities in lump sum, or as otherwise determined by the Administrator.

[Source 41 PNC § 747]

Section 219. Social Security Cards and Numbers

- (1) Social Security Card: The Social Security Administrator, or his or her designee, shall assign to each employee contributor a Social Security number and card bearing such number.
- (a) Palauan Citizens: Every person who is Palauan citizen shall be required to show birth certificate, passport, or other recognized form of identification when applying for a Social Security Number. The Administration may retain copies of the identification presented.
- (b) Foreigners: Every person who is not a Palauan citizen shall be required to show a valid provisional visa issued by the Bureau of Immigration, a passport with more than six (6) months before expiration remaining on it, and any other form of identification deemed appropriate when applying for a Social Security Number. The Administration shall retain copies of all identification presented. The Administration may only issue Social Security Numbers for the following provisional or permanent immigration visas holders:
- Dependent Visa
 - Business Visa
 - Government Employee Visa
 - Investor Visa
 - Foreign Government or International Organization Representative Visa
 - Work Visa
 - Resident Visa

- FSM/RMI/USA Visa

The Administration shall not issue a Social Security Number for the following provisional or permanent immigration visa holders or persons without written authorization from the Director of the Bureau of Immigration or other authorized government representative:

- Student Visa
- Temporary Visa
- Tourist Visa
- Foreign Military Personnel
- Foreign Diplomats (or their families)
- Crews of Commercial Carriers

All other Social Security Number applicants not covered under the above-mentioned rules shall be considered on a case-by-case basis.

- (2) Lost or Stolen Cards: Any employee that loses or misplaces their Social Security Card for any reason shall be required to show identification including a passport and/or work permit (if applicable) in order to receive a new card. The Administration shall assess an administrative fee to replace a lost or missing Social Security Card.
- (3) Employer Retention Requirements: Every employer shall be required to retain a copy of each employee's Social Security Card who is currently employed by the employer for reporting purposes under 41 PNC.

[Source 41 PNC § 747]

PART III. COVERAGE

SUB-PART A: FORMULA & BASIC BENEFITS

Section 301. Basic Benefit Formula

The Basic Benefit shall be one-twelfth (1/12) of the total of:

- (1) Sixteen point five percent (16.5%) of the first eleven thousand dollars (\$11,000.00) of cumulative covered earnings; and
- (2) Two point seven percent (2.7%) of cumulative covered earnings in excess of eleven thousand dollars (\$11,000.00) but not in excess of the next thirty-three thousand dollars (\$33,000.00); and
- (3) One point three five percent (1.35%) of cumulative covered earnings in excess of forty-four thousand dollars (\$44,000.00).

[Source 41 PNC § 751]

Section 302. Cumulative Covered Earnings

Cumulative Covered Earnings means remuneration on which employee contributions have been made. Employees can and shall only receive benefits on covered earnings. [Source 41 PNC § 751]

Section 303. Types of Benefits

The types of benefits under Social Security shall be limited to the following unless otherwise provided by law:

- (1) Old age insurance benefits (41 § 753)
- (2) Disability insurance benefits (41 § 754)
- (3) Surviving spouse insurance benefits (41 § 755)
- (4) Surviving child insurance benefits (41 § 756)
- (5) lump sum insurance benefit (41 § 758)

Except as provided in 41 § 755 (surviving spouse insurance benefit), no person shall receive two types of benefits at the same time. A person eligible to receive two (2) types of benefits shall elect, by written notice to the Administrator, which benefits they prefer to receive. Until and election is made, the person shall receive the benefits as determined by the Administrator.

If by error a person receives two (2) types of benefits, they shall immediately, upon becoming aware of such error, report the mistake to the Administration. Failure to report such error to the Administration shall result in a fine of no less than fifty dollars (\$50.00). [Source 41 PNC § 752]

SUB-PART B: OLD AGE INSURANCE BENEFIT

Section 304. Old Age Insurance Benefit

A person shall be entitled to receive a monthly old age insurance benefit if (1) the person is fully insured; (2) has attained the age of sixty (60) years; and (3) is retired. The person shall be so entitled beginning with the month in which that person became so entitled and ending with the month preceding the month in which the person dies.

The monthly amount of the benefit is the basic benefit, with a minimum monthly benefit of forty-seven dollars and fifty cents (\$47.50).

A person who is receiving an old age insurance benefit who returns to employment shall remain eligible to receive the old age insurance benefit. The benefit shall be recomputed at the end of the calendar year and the recomputed benefit shall be paid on the first month of the next calendar year.

A person receiving the old age insurance benefit who returns to work shall immediately report the return to employment to the Administration. Failure to report a return to work to the

Administration shall result in a fine of no less than fifty dollars (\$50.00). [Source 41 PNC § 753]

SUB-PART C: DISABILITY INSURANCE

Section 305. Disability Insurance

A person, who is disabled and, at the time of the onset of the disability, was both fully and currently insured, shall be entitled to a monthly insurance benefit. The benefit shall begin at the month in which the person became so entitled and end with the month before the month in which the disabled person dies or recovers from the disability, whichever occurs first.

The amount of the monthly disability insurance benefit shall be the basic benefit with a minimum monthly benefit of forty-seven dollars and fifty cents (\$47.50).

If a person is receiving a periodic workmen's compensation benefit, the disability insurance benefit shall be reduced in any month by the amount in which the total of the workmen's compensation benefit plus the basic benefit exceeds eighty percent (80%) of one-twelfth (1/12) of the highest annual remuneration on which contributions were made in the period consisting of the year in which the disability occurred in the preceding five (5) years. If the workmen's compensation benefit was computed to a lump sum, it shall be treated as if the periodic benefit which was originally payable was in fact paid. [Source 41 PNC § 754]

Section 306. Disability Defined

- (a) The term "disability" shall mean the following:
- (1) Inability to engage in any substantial gainful employment or activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last for a continuous period of not less than twelve (12) months.
 - (2) A child under the age of eighteen (18), or under the age of twenty-two (22) if a bona fide student, will be considered disabled if he or she has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations or can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months.
- (b) Substantial gainful activity is work activity that is both substantial in nature and gainful in terms of compensation:
- (1) Substantial work activity is work activity that involves doing significant physical or mental activities. Work may be substantial even if it is done on a part-time basis, for fewer hours, less responsibility, or for less compensation.

- (2) Gainful work activity that is for pay, compensation, wages, profit, or some other gain. Work may be considered gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized.
- (3) The Administration shall not consider personal maintenance, household tasks or chores, hobbies, therapy, school attendance, club activities, or social programs to be substantial gainful employment.

[Source 41 PNC § 711 and § 712(d)]

Section 307. Medically Determinable Impairment

In order to receive disability benefits a person must have a physical or mental medically determinable impairment. Each person who files a claim for disability is responsible for providing medical evidence from acceptable medical sources showing that he or she has a determinable impairment(s) and how severe each impairment(s) is. A physical or mental medically determinable impairment is an impairment that results from an anatomical, physiological, or psychological abnormality which can be shown by medically acceptable clinical and laboratory techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, diagnosis, tests, findings, laboratory work. Statements made by an individual claiming the disability may be offered as support of a medically determinable impairment but shall not be conclusive by themselves.

The Administration shall use a listing(s) of impairments, for each major body system, that are considered severe enough to prevent a person from doing any gainful activity. Most of the listed impairments are considered permanent or expected to result in death, or a specific statement of duration is made. These listed impairments shall not require proof that the impairment has or is expected to last for a continuous period of twelve (12) months or more. For all other non-listed impairments, the claimant shall provide proof from an acceptable medical source that the impairment has or is expected to last for a continuous period of twelve (12) months or more.

[Source 41 PNC § 711 and § 712(d) & U.S. SSA]

Section 308. Acceptable Medical Sources for Evidence

Acceptable medical sources include but are not limited to the following:

- (1) Licensed physicians (medical or osteopathic doctors);
- (2) Licensed or certified psychologists;
- (3) Licensed optometrists;
- (4) Licensed podiatrists;
- (5) Qualified speech-language pathologists;
- (6) Treating sources such as hospitals or health facilities; or
- (7) Other sources such as schools, care givers, social workers, naturopaths, chiropractors, and audiologists.

[Source 41 PNC § 711 and § 712(d) & U.S. SSA]

Section 309. Disability Determination

The Administration shall make a determination of disability based on medical evidence provided by the claimant through a process known as “sequential evaluation”.

- (a) For adults, the procedure requires sequential review of the claimant’s current work activity, the severity of his or her impairment(s), the claimant’s residual functional capacity, his or her past work experience, and his or her age, education, and work experience.
- (b) For children, the process requires sequential review of the child’s current work activity (if any), the severity of his or her impairment(s), and an assessment of whether his or her impairment(s) result in marked and severe functional limitations.

If an adult or child is found to be disabled or not disabled at any point in the evaluation, the evaluation shall immediately cease. [Source 41 PNC § 711 and § 712(d) & U.S. SSA]

Section 310. Examination

The Administrator may require any person or child claiming disability benefits to undergo an examination by a physician or physicians designated by the Administration. When the Administrator so requires, the cost of such examination shall be paid by the claimant. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 311. Application for Disability Benefits

In order to gain eligibility for disability benefits, a person shall file an application no sooner than sixty (60) days from the date he or she claims such disability commenced. Applications submitted within sixty (60) days of the commencement of the disability shall not be considered. This waiting period shall not affect the claimant’s right, if eligible, to receive benefits retroactive to the date of the onset of the disability.

Any person applying for disability benefits shall provide:

- (1) A birth certificate or other proof of age;
- (2) A certification by their employer as to the date such person stopped working due to the disability; and
- (3) All medical records pertaining to the person’s claimed disability.

[Source 41 PNC § 711, § 712(d), & SSA By-Laws]

Section 312. Application Approval

Any complete application for disability benefits containing all the necessary supporting documents as required by law or these policies shall be approved or disapproved not more than sixty (60) days after the date of the application. The sixty (60) day period may be extended for

disability claims requiring medical evaluation or testing at the discretion of the Administrator. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 313. Exceptional Circumstances

The Administrator may waive the waiting period for application of disability benefits upon making a written determination of special circumstances and urgency. The exception may also include a finding of “presumption of disability”. An applicant may be found “presumptively disabled” and receive cash benefits for up to six (6) months while the formal disability determination is made. The presumptive payment is designed to allow a needy individual to meet his or her basic living expenses during the time it takes to process his or her application. If it is found that the individual is not disabled, he or she is not required to refund the payments. [Source 41 PNC § 711 and § 712(d) & U.S. SSA]

Section 314. Duration of Benefits

Disability benefits shall be paid up to and including the month immediately preceding the month the person receiving the benefits resumes employment or until it is determined, by the Administrator, based on one or more medical examinations by a designated physician or physicians, that such person is capable and fit to resume substantial gainful employment, regardless of whether such employment is actually available to the person. [Source 41 PNC § 754]

Section 315. Reapplication

Once a person who has received disability benefits returns to work, he or she must reapply for disability benefits should he or she once again become disabled. There shall be no waiting period, however, for a person applying for disability benefits based on a disability for which such person has previously received benefits, provided such prior benefits were received within the three (3) year period preceding the application. [Source 41 PNC § 754]

Section 316. Death of Claimant

Any retroactive disability benefit payment approved following the death of a claimant shall be payable to the deceased claimant’s estate. The benefit thus payable shall be computed to commence with the month of the onset of the disability and terminate with the month preceding the person’s death. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 317. Disability Fraud

Any claimant or guardian of a claimant found by the Administration to have completed a claim for disability benefits knowing such claim to be false shall be reported to the Office of the Attorney Generals for prosecution under 17 PNC [attempted] § 1903 or any other offense deemed appropriate. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

SUB-PART D: SURVIVING SPOUSE & CHILD INSURANCE BENEFITS

Section 318. Surviving Spouse Insurance Benefit

Subjection to 41 PNC § 757, the surviving spouse of a person who has died while fully or currently insured shall be entitled to a monthly survivor's insurance benefit, beginning with the month in which the surviving spouse became so entitled and ending with the month preceding the month in which the surviving spouse dies. A widow or widower may remarry and continue to receive the benefit, but shall not be able to receive more than one surviving spouse's insurance benefit.

The monthly amount of the benefit is sixty percent (60%) of the basic benefit applicable to the deceased at the time of their death.

If the surviving spouse is eligible for the old age or disability insurance benefit based on his or her employment coverage, the surviving spouse's benefit shall **not** be reduced by the amount of the old age or disability insurance benefit.

Earnings Test: A person under the age of fifty (50) who is employed and earns more than five hundred dollars (\$500.00) in any quarter shall have his or her surviving spouse benefit reduced by one dollar (\$1.00) for every three dollars (\$3.00) of wages earned in a quarter in excess of five hundred dollars (\$500.00). The reduction shall be applied in the quarter immediately following the quarter in which the wages were earned. [Source 41 PNC § 755]

Section 319. Application for Surviving Spouse Benefits

A surviving spouse may file for benefits within at least five (5) years following the death of his or her insured husband or wife. Together with the completed application, the surviving spouse shall submit the following:

- (1) The death certificate of the insured spouse;
- (2) Birth certificate or other official identification documents, such as a passport, showing date of birth of the surviving spouse claimant;
- (3) A marriage certificate showing the marriage of the surviving spouse and the deceased insured person; or sworn statements by the surviving spouse and two (2) blood relatives of the deceased insured person attesting to the existence of a common law or customary marital relationship between the surviving spouse and the decedent; or a court certification confirming a marital relationship between the surviving spouse and the decedent; and
- (4) A sworn affidavit by the surviving spouse that the marital relationship between the surviving spouse and the decedent had not been terminated by divorce or annulment prior to the death of the decedent.

If a surviving spouse claimant cannot produce any of the above specified documents, the Administrator may consider other evidentiary proof. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 320. More Than One Claimant

The Administration shall only recognize one surviving spouse and only one surviving spouse shall receive surviving spouse benefits under 41 PNC. In the event that more than one surviving spouse claims such benefits, the Administration shall hold such benefits until a determination is made. The benefits shall be awarded to the surviving spouse whose un-terminated marriage to the decedent predates that of any other surviving spouse. Until the Administrator makes such determination, the survivor spouse benefits shall be held in a separate account. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 321. Surviving Child Insurance Benefit

A surviving child who was, immediately before the death of a person who died fully or currently insured, dependent upon that person, is entitled to a monthly survivor's insurance benefit, beginning with the month in which the surviving child became so entitled and ending with the month preceding the month in which the child:

- (1) Attains the age of 18 years;
- (2) The attainment of the age of 22 years, as long as the child is a bona fide student;
- (3) Marries;
- (4) Is adopted; or
- (5) Subject to section 41 PNC § 762 (evidence of disability), if a child is disabled before the attainment of the age of 22 years, the benefit is payable during the disability.

Subject to section 41 PNC § 758 (lump sum benefits), the monthly amount of the benefit is fifteen percent (15%) of the amount of the basic benefit applicable to the deceased at the time of his or her death. [Source 41 PNC § 756]

Section 322. Application for Surviving Child Benefits

An application for benefits may be made at any time after the death of the insured person who the applicant was dependent on. Each such application shall include copies of the following:

- The death certificate of the deceased insured person;
- The birth certificate of the surviving child applicant;
- If applicable, proof of adoption by the decedent if the applicant is not the natural child of the decedent;
- If applicable, proof of the bona fide student status or disabled status, in accordance with these by-laws;
- Proof of guardianship if the applicant is living with someone other than the surviving spouse of the decedent; and

- Such other documents deemed necessary and appropriate by the Administrator.

[Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 323. Dependency

The Administration shall determine that a surviving child is dependent upon a deceased insured person if the child received from such person regular, periodic payments of money or contributions of food, clothing, shelter, medical care, tuition, and other necessities and services required for or by a child. Such contributions must constitute a substantial part of the ordinary living costs of the child.

Occasional or irregular gifts or donations do not qualify so as to create dependency. Temporary interruptions in contributions, however, for circumstances beyond the control of the insured person, shall be disregarded unless someone else takes over responsibility for support on a permanent basis.

A child who is living with the insured person at the time of the insured person's death shall be presumed to be a dependent of such insured person. This presumption is rebuttable only through clear and convincing evidence. A child living with the insured person at the time of the insured person's death, who is not related to the decedent as a natural child, stepchild, adopted child (legally or under Palauan custom), grandchild, or step-grandchild, shall be required to show dependency. [Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 324. Bona Fide Student

- (a) The Administration shall make a determination that a person or child is a bona fide student for the purposes of eligibility for payment of a surviving child's insurance benefit if:
- (1) He or she attends a school, which provides elementary or secondary education, including technical, vocational, or trade schools, junior colleges, colleges, and universities, as determined under the law of the jurisdiction in which the school is located. He or she shall furnish the Administrator with a form (ROPSS-110) completed by the officials of the school attended;
 - (2) He or she is in full-time attendance in a day or evening non-correspondence courses and is carrying a subject load which is considered full-time for a day student under the institution's standards and practices, with scheduled attendance at the rate of at least twelve (12) hours per week and a course of study which is at least thirteen (13) weeks in duration; or
 - (3) He or she is enrolled as a student at an elementary or secondary school and attends such school on a regular basis.

Note: If a person is being paid while attending a school by an employer who has requested or required that the person attend the school, that person shall not be deemed a bona fide student.

- (b) If a person is a full-time student, then eligibility may continue during a period of non-attendance if all the following conditions are met:
 - (1) The non-attendance is four (4) consecutive months or less;
 - (2) The person shows that they intend to resume their studies as a full-time student at the end of the period or the next period; and
 - (3) The period of non-attendance is not due to expulsion or suspension from school or from incarceration relating to the commission of a crime.

[Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 325. Computation of Survivor Benefits

- (a) The monthly total of the survivor's insurance benefits payable with respect to a deceased employee contributor shall not exceed the basic benefit applicable to him or her immediately before death (without reference to 41 PNC § 753(c)). However, the minimum amount of the total of a survivor's insurance benefit shall be forty-seven dollars and fifty cents (\$47.50) per month, computed before the application of 41 PNC § 755(c).
- (b) The total of all survivors' benefits payable to survivors of a decedent shall not exceed the basic benefit applicable to the decedent immediately before his or her death. If more than one person is entitled to benefits as survivors of an insured decedent and the total of such benefits exceeds the basic benefit, then each such benefit shall be reduced to the proportion that each such benefit represents to the total benefit payable. **[Source 41 PNC § 757]**

Example: The total benefits percentage for a surviving spouse with five (5) surviving children would equal one-hundred and thirty-five percent (135%). In such a case, the surviving spouse would receive 60/135, or 44.4% of the basic benefit, and each child would receive 15/135 or 11.1% of the basic benefit.

SUB-PART E: OTHER BENEFIT PROVISIONS

Section 326. Lump Sum Benefits

If after an employee contributor dies and all rights to survivor insurance benefits with respect to him or her have been terminated, a lump sum benefit shall be paid in accordance with 41 PNC § 758. **[Source 41 PNC § 758]**

Section 327. Over and Under Payment

Any over or under payment of benefits shall be deducted from or added to any subsequent payment of benefit to or with respect to the payee, and in any event it shall, if necessary, be deducted from or added, partially or in-full, to any subsequent payment of a lump sum benefit. The Administrator shall not make any adjustment when determined that the adjustment would be made against equity and good conscience. [Source 41 PNC § 759]

Section 328. Retroactive Payment

In the event that a person is eligible for benefits from the System but does not apply for those benefits or otherwise inform the Administrator that the he or she is eligible for benefits, the maximum period for which benefits shall be paid retroactively preceding the date of application for benefits shall be twelve (12) months. [Source 41 PNC § 808]

Section 329. Payment to Non-citizens.

- (a) Overseas: No more than six (6) months of benefits payments shall be paid to any beneficiary who is not a citizen or national of the Republic of Palau while the beneficiary is residing outside of the Republic.
- (b) Residing in ROP: Any beneficiary who is not a citizen or national of the Republic of Palau that is permanently residing in the Republic of Palau shall be eligible to receive full benefits. A person residing in the Republic of Palau shall provide the following to establish proof of permanent residency:
- Post Office Box;
 - Telephone Number;
 - Cell Phone Number;
 - Email Address;
 - Physical Location of Residence;
 - Copy of Immigration Visa, if applicable; and
 - Emergency Contact Person.

At any time, the Administration may investigate the accuracy of any information provided and the legitimacy of the claim of permanent residency. The Administration, after review, may determine that a person is not, in fact, residing in the Republic of Palau.

- (1) In the application process, if Administration determines that a non-citizen claimant who claims to be residing in the Republic but is not, in fact, residing in the Republic, the Administration shall pay no more than six (6) months of benefits payments; or

- (2) If the Administration determines that a non-citizen receiving benefits, who claims to be residing in the Republic but is not, in fact, residing in the Republic, the Administration shall immediately cease all disbursements of benefits. The Administration shall notify the non-citizen of the determination and shall request that all benefits received after six (6) months shall be returned to the Administration, with interest. The Administration may file a civil proceeding to recover these benefits. The Administration shall also report such non-citizen to the Bureau of Immigration and may refer the case to the Office of the Attorney General for criminal prosecution under 17 PNC [cheating, larceny, etc.].

[Source 41 PNC § 760]

PART IV. FORMS OF PROOF OR EVIDENCE

Section 401. Evidence of Entitlement

The Administrator may at any time require a person claiming or receiving a benefit under 41 PNC to produce evidence, to the satisfaction of the Administrator, of his or her entitlement to that benefit. If evidence is not produced within a reasonable time, the Administrator may suspend payment of the benefit until the necessary evidence is produced. In the case of a minor (person under the age of eighteen (18) years of age), a requirement of evidence by the Administrator may be directed to the parent or guardian of the minor. [Source 41 PNC § 763]

Section 402. Date of Birth

The Administrator shall base his or her determination of the date of birth upon the consideration of all available evidence presented or obtained. For the purpose of determining eligibility for benefits, record-keeping, and other purposes the Administrator may weigh the credibility of the following documents, whose weight shall be assessed in descending order, to determine date of birth:

- Birth certificate of claimant issued at close temporal proximity to the listed date of birth;
- Passport;
- Marriage records;
- The birth certificate of a person's child showing the age of the person;
- Voting records;
- Church records;
- Census records;
- Insurance records;
- Employment records;
- Government records;
- Birth certificates of the claimant not issued in close temporal proximity to the listed date of birth; and
- Any other evidence considered by the Administrator to be of probative value.

Records evidencing the date of birth of a claimant that were produced close in time to such birth date shall be given greater probative weight than records later produced or amended, and in particular, records produced or amended close in time to the retirement date of any claimant. Testimony or affidavits of persons who have knowledge relevant to the claimant's age may be taken into consideration by the Administrator. **[Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]**

Section 403. Date of Death

A death certificate issued in the Republic of Palau or another duly recognized jurisdiction shall be sufficient proof of the date of death of any person.

When there is no physical body, a person shall be presumed dead (death in absentia) upon a third party petitioning a Court to issue a determination of death or a certificate of death.

Example: A person presumed to have drowned and died when their boat went down in a storm. A body has not been recovered; however, the family presumes the person to be dead. The family may petition the Court to issue a Certificate of Death even though there is no physical body to bury. The family may then present the court issued Certificate of Death to the Administration as proof of date of death.

When there is no physical body, after seven (7) years the Administrator may independently make a determination that a person is deceased if no death certification has been issued. **[Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]**

Section 404. Guardianship

Unless other evidentiary documents are presented, the Administration shall presume that the birth parents of a child are the legal guardians of the child. The following evidentiary documents may prove or disprove guardianship:

- (1) A final court order, including a custody determination or adoption papers, from any duly recognized jurisdiction naming a legal guardians;
- (2) A valid affidavit signed by one or both of the birth parents relinquishing guardianship to another party;
- (3) Documents showing dependency such as bills for necessities including food, shelter, school, etc.
- (4) Statements made by the child at issue; and
- (5) Any other evidentiary proof deemed appropriate by the Administrator.

Relinquishment of Parental Rights: A birth parent who has relinquished their rights as guardian shall provide adequate written documents reinstating those rights. Any dispute of guardianship by two or more parties shall result in the Administration holding any benefits in trust for the

child at issue until the issuance of a judicial order or agreement between the parties regarding the guardianship at issue.

Benefits Held in Trust: Any benefits issued by the Administration for a child to a legal guardian shall be held in trust for that child by the guardian. The guardian shall act as a trustee of the benefits and be held to all the duties of a fiduciary. The guardian shall not use any benefits for a child for their personal use. [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

Section 405. Competency

There are instances in which an employee of the Administration may have to make a determination of whether a person or beneficiary is competent to make a decision or execute an agreement or other legal matter.

If the matter involves the **execution of an agreement, contract, affidavit, or other document**, to prove competency a person must be able to: (1) understand the document; and (2) execute the document or have someone execute the document on his or her behalf.

If the matter involves an **administrative hearing or any judicial proceeding**, to prove competency a person must be able to: (1) understand the proceeding; and (2) rationally deal with persons involved in the proceeding.

In both above-mentioned matters, at no time can force be used (for example: forced signatures on documents, the use of intimidation or fear, or coercion to testify, etc.). [Source 41 PNC & SSA By-Laws]

Section 406. Other Judicial Matters

The Administration shall require a copy of an original judicial order as proof for the following matters:

- Name Change;
- Marriage;
- Divorce;
- Adoption;
- Estate;
- Liquidation;
- Criminal or Civil Suit; and
- Any other judicial order deemed appropriate by the Administrator.

Any party wishing to overturn or challenge an existing and valid order or decree issued by a duly recognized Court which effects any right or benefit under 41 PNC must seek judicial action regarding the existing order or decree. [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

Section 407. Dissolution or Change in Ownership of Business

Any business owner(s) subject to 41 PNC shall be required to promptly notify the Administration in writing when such business ceases to operate or when there is any change in ownership of such business. Changes in ownership shall include changes in ownership interests and changes in the number of owners. [Source 41 PNC § 711, § 712(d), § 763, & SSA By-Laws]

PART V. HEARING AND APPEAL

Section 501. Matters for Determination

The Board and the Administrator may make determinations for the purpose of determining any question involving, but not limited to, any of the following Social Security matters:

- Any right, benefit, or obligation under 41 PNC or these policies and procedures;
- Entitlement or continuing entitlement to benefits;
- Re-entitlement to benefits;
- The amount of any benefits;
- The application of the earnings test to benefits;
- The establishment or termination of a period of disability;
- The payee(s) of survivor's insurance benefits, including lump sum benefits; or
- Any overpayment or underpayment of benefits;
- Suspension of benefits pending an investigation and determination of any factual issue relating to the entitlement of the person concerned to receive such benefits, including investigations into the cessation of a disability;
- Withholding less than the full amount of a monthly benefit to recover an overpayment;
- A determination of outstanding Social Security liabilities; and
- Date or birth, date of death, or guardianship determination.

[Source 41 PNC § 716]

Section 502. Determinations

A determination is a decision by the Board or Administrator, regarding a person's entitlement or continuing entitlement to benefits or about any other matter concerning a right conferred under 41 PNC or these policies and procedures. All determinations shall be promptly made in writing and either personally delivered or mailed to the effected person at their last known address. A determination is binding unless the person concerned requests a reconsideration of the determination within thirty (30) days of receipt of the decision. [Source 41 PNC § 716]

Section 503. Notice

Any determination made by the Board or Administrator shall be either personally delivered or mailed to effected persons. A hand delivered determination shall be deemed received upon

delivery. A mailed determination mailed to an address in the Republic of Palau shall be deemed received by the addressee three (3) days from the postmark date. A determination mailed to an address outside the Republic of Palau shall be deemed received by the addressee ten (10) days from the postmark date. [Source 41 PNC § 711, § 712(d), & SSA By-Laws]

Section 504. Reconsideration

Any person aggrieved by a determination of the Administrator involving any right, benefit or obligation of that person under 41 PNC or these by-laws may ask for a reconsideration of that decision in the following manner:

- (1) Within thirty (30) days of receipt of the Administrator's decision, the aggrieved person or any person who makes a showing that his or her rights may be adversely affected by the determination, may file a written request for reconsideration of that decision with the Administration and, along with that request, may provide any reasons or additional documentary evidence which would support a reversal of the original decision;
- (2) The reconsideration process shall consist of a case review by the Administrator, where all parties to the reconsideration shall be given the opportunity to submit additional evidence by such deadline as the Administrator shall set in each case. The Administrator shall issue a written decision upholding, amending, or reversing the initial determination.
- (3) Failure to adhere to this determination and reconsideration procedure or failure to file a request within the stated time period shall result in the denial of the reconsideration and the loss of the right to further appeal the decision.

[Source 41 PNC § 716]

Section 505. Appeal Hearing

A reconsideration by the Administrator upholding the initial determination shall be binding unless appealed to the Board within thirty (30) days of receipt of the decision.

- (1) An appeal hereunder shall be made in writing and shall include any additional documentary evidence or arguments that the appealing party wishes the Board to consider. The Board shall review and consider the entire record of the matter and render its written decision on the appeal within forty-five (45) days of the date of the filing of the appeal. A party to an appeal is entitled to be represented by an attorney or any other person so designated by the party.
- (2) When a party appeals or requests reconsideration of a determination made by the Board, the party shall be afforded an opportunity for hearing after reasonable notice. The notice shall include:

- A statement of the time, place, and nature of the hearing;
 - A statement of the legal authority (41 PNC) and jurisdiction (ROP Constitution, 41 PNC, 6 PNC) under which the hearing is to be held;
 - A reference to the particular sections of the statutes, by-laws, and rules involved;
 - A short and plain statement of the matters asserted; and
 - The names and addresses of all parties and other persons to whom notice is being given.
- (3) Reasonable opportunity shall be afforded all parties in an appeal to the Board to respond and present evidence and argument on all issues involved. Unless otherwise prohibited, informal disposition may be made of any contested determination. Failure to adhere to this claims appeal procedure or failure to file a request within the stated time period shall result in the denial of the appeal and the loss of the right to further appeal the decision. **[Source 41 PNC § 716]**

Section 506. Records and Findings of Fact

The record in an appeal to the Board may include the following, if submitted:

- All pleadings, motions, and interim rulings;
- Evidence received or considered;
- A statement of matters officially noticed;
- Questions and offers of proof, objections, and rulings thereon;
- Proposed findings and exceptions;
- Any decision, opinion, or report by the officer presiding at the hearings;
- All staff memoranda or data submitted to the officer presiding at the hearing or to members of the agency in connection with their consideration of the case.

Oral proceedings in appeals to the Board shall be recorded, and any part thereof shall be transcribed on request of any party at the party's expense. Findings of fact in appeals to the Board shall be based exclusively on the evidence and on matters officially noted. **[Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]**

Section 507. Rules of Evidence in Appeals

The following procedures concerning evidence shall be observed in appeals to the Board:

- (a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Courts of Republic of Palau Rules of Evidence shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. The Board shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the

record. Subject to these requirements, when a hearing will be expedited and the interests of the evidence may be received in written form. All testimony of parties and witnesses must be made under oath or affirmation;

- (b) Documentary evidence may be received in the form of copies of excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;
- (c) A party may conduct cross-examinations required for a full and true disclosure of the facts; and
- (d) Notice may be taken of judicially recognized technical or scientific facts within the Administration's or Board's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Administration's or Board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. [Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]

Section 508. Final Decisions and Orders

A final decision, or order adverse to a party in an appeal to the Board, shall be in writing or stated in the Board's record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. A copy of the decision or order shall be delivered or mailed forthwith to each party and to his or her attorney of record. [Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]

Section 509. Ex Parte Consultations

Unless required for the deposition of ex parte matters authorized by law, Board members assigned to render a decision or to make findings of fact and conclusions of law in an appeal to the Board shall not communicate, directly or indirectly, in connection with any issue of law, with any party or his or her representatives; except upon notice and opportunity for all parties to participate. Board members may: (1) communicate with other members of the Board; and (2) have the aid and advice of one or more personal assistants. [Source 41 PNC § 711, § 712(d), & SSA By-Laws; 6 PNC]

Section 510. Review of Board Final Decision or Order

Any person, aggrieved by a final decision, order, or determination rendered by the Board after hearing may obtain a review of the decision in the Supreme Court of the Republic of Palau by filing with the Clerk of Courts, within sixty (60) days after receiving notice of the decision, a written petition praying that the decision be modified or set aside in whole or in part. A copy of

the petition shall be served on the Board. The Board shall certify and file with the Clerk of Courts a copy of the record on which the order was based. The findings of the Board as to all material facts, if supported by competent material and substantial evidence, are final. [Source 41 PNC § 717]

PART VI: REPORTING & PAYMENT

Section 601. Reports and Payment of Contributions

It is each employer's duty and responsibility under the law (41 PNC) to make reports to the Social Security Administration and to pay all amounts of contributions due at the end of each quarter on an official form provided by the Administration. The Administration has no obligation to remind employers of this responsibility. Under the law, the Administration assumes that an employer or business owner is aware of the legal responsibilities of operating a business within the Republic of Palau. A claim of ignorance by any employer or business owner failing to report shall not be a valid legal defense for not reporting or non-payment of contributions.

The official report forms shall be provided by the Administration to each employer, free of charge. The employer shall show, in addition to other information specified by the Administrator, the following:

- (1) The Employer Account Number (as assigned under 41 PNC § 747);
- (2) The Employee Contributor Social Security Number (as assigned under 41 PNC § 747);
- (3) The Employers Home Telephone Number, Work Telephone Number, and Cell Phone Number;
- (4) The Employers Email Address (if any); and
- (5) The Employers Business and Residential Post Office Box.

The Administration assumes that all reports submitted by employers are completed on a good faith basis, based on the truthful, diligent, and accurate records of the business. All reports submitted by employers shall be signed under penalty of perjury and subject to criminal prosecution by the Office of the Attorney General under 17 PNC § 2601.

Any errors or mistakes as to employee names or Social Security numbers submitted on such reports shall result in an administrative fee per error.

If an employer or employee knowingly submit erroneous information on any report required by the Administration, the employer or employee shall be reported to the Office of the Attorney Generals for prosecution under 17 PNC § 2601 or any other offenses deemed appropriate. [41 PNC § 745]

Section 602. Quarterly Tax Reports

All Social Security Quarterly Tax Reports shall be submitted to the Administration with payment in full. Quarterly Tax Report forms are available at the Administration free of charge. All quarterly reports shall be submitted with payment within a month following the end of each quarter. When payment is made, reports should indicate the payment date, receipt number, and the amount actually paid.

Upon payment, the first copy of the report shall be submitted to the Administration. The employer shall retain the second copy. The report shall show the following:

- (1) Complete name of business or owner (in case of domestic helper);
- (2) Employer number followed by the Subsidiary Code, if applicable;
- (3) Complete address of business or owner;
- (4) Payroll ending date;
- (5) Due date;
- (6) Complete name, Social Security number, total gross wages, taxable wages, twelve percent (12%) tax for each employee;
- (7) The totaled wages and tax at the bottom of the page; and
- (8) Signature of business or owner with the date of such signature.

The **due dates** for the Quarterly Tax Reports shall be as follows:

- March 31st Report due on April 30th
- June 30th Report due on July 31st
- September 30th Report due on October 31st
- December 31st Report due on January 31st

[41 PNC § 745]

Section 603. Refunds

Refund: When an employee contributes on a total remuneration in excess of the maximum remuneration of three thousand dollars (\$3,000.00; 41 PNC § 742), whether from one or more employers, and their employee contributions are withheld and paid to the Administration, the excess employee contributions during the four quarters ending on December 31st shall be refunded by the Administration to the employee within ninety (90) days after that date. However, no refund shall be made for an amount of less than five dollars (\$5.00). No refund shall be made to any employer on any amount of excess employer contributions paid by them, other than to correct an error. **No refund shall be issued to any employee who owes outstanding employer or employee Social Security debt; instead, the refund shall be used to off-set any outstanding Social Security debt.** (Board Resolution 2007)

- (a) Self Employed: Each employer that is required to report his or herself at twice the wages of their highest paid employee, subject to the quarterly maximum; if the employer is reported as an employee of one or more businesses for the same

quarter, the employer shall receive a six percent (6%) refund for those earnings in excess of the maximum taxable wage.

- (b) Palauan Citizen: A Palauan citizen who is an employee who contributes on total remuneration in excess of the maximum remuneration of three thousand dollars (\$3,000.00), regardless of whether the remuneration is from one or more employers, and the employee contributions are withheld and paid to the Administration; the excess employee contributions during the four (4) quarters ending on December 31st shall be refunded by the Administration to the Palauan employee within ninety (90) days after that date.
- (c) Foreign Worker Employee: an employee, who is a foreign worker under 30 PNC [Labor], is eligible to receive a refund if they contribute on a total remuneration in excess of the maximum remuneration of three thousand dollars (\$3,000.00). However, the foreign worker, as required under 30 PNC § 169, shall only work for the one (1) employer that is listed on their foreign worker permit and the employee's contributions must have been withheld and paid to the Administration. The excess employee contributions during the four (4) quarters ending on December 31st shall be refunded by the Administration to the foreign employee within ninety (90) days after that date.
- A foreign employee shall be deemed “*working for the employer listed on the work permit*” when the foreign employee is working for the employer listed on the foreign worker permit or a subsidiary, branch, division, or other business which is legally situated under or a part of the employer listed on the foreign employee worker permit.
 - A foreign employee who is working for two (2) separate and distinct employers, and has contributed on total remuneration in excess of the maximum remuneration of three thousand dollars (\$3,000.00), is **NOT** entitled to a refund. Such foreign employee is working for two (2) different employers in violation of 30 PNC § 169 and shall be reported by the Administration to the Division of Labor, Immigration, and the Office of the Attorney General. [41 PNC § 746]

PART VII. DELINQUENCY, DEBT COLLECTIONS, PENALTIES, & INTEREST

Section 701. Quarterly Report Due Date

The due dates for the Quarterly Reports shall be as follows:

- March 31st Report due on April 30th
- June 30th Report due on July 31st
- September 30th Report due on October 31st
- December 31st Report due on January 31st

Payment shall be made by the due dates. Payment shall be defined as the payment in cash or cash equivalent, in full, made to the Administration by the due date. Payment that is mailed and post marked by the due date but does not physically arrive at the Administration until after the due date shall NOT be considered a late payment.

Section 702. Authorized Late Payment

An employer, upon the approval of the Administrator or his or her designee, may file their Quarterly Report on or before the due date and pay on a later date without the assessment of a penalty, however, interest shall be assessed. Factors to be considered in approving and determining the date for the employer to pay his or her contributions include but are not limited to the following:

- Payment history of the employer
- Number of times the employer has requested late payment
- The employer's history of keeping his or her promise to pay
- Any other relevant factors

An employer who continually files on time but pays late shall be referred to the Administrator. The Administrator shall determine what steps need to be taken regarding the situation. **[Source 41 PNC & SSA By-Laws]**

Section 703. Supplemental Reports

There shall be no penalty assessed for underpayments of Quarterly Reports due to simple miscalculations on the employer's part. The Administration's Collections Officers shall attempt to review all Quarterly Reports before payment is collected. If a miscalculation or error is found and payment made was not enough, the payment and receipt shall be held until the employer makes complete payment. If a miscalculation or error is found and payment made was more than the actual amount owed, payment shall be received and the employer shall be informed that the remainder of the overpayment shall be transferred to the next quarter. **[Source 41 PNC & SSA By-Laws]**

Section 704. Collection Process

Upon a determination that an employer has not timely paid any sums due under 41 PNC the Administrator shall:

- (1) Issue a written first notice demand letter to the employer or person concerned requesting payment in full or by payment agreement of the sum due as well as any applicable penalties or interest within thirty (30) days of the date of the letter.
- (2) Upon passage of the first thirty (30) day period without payment or agreement as to the means of payment, a written second notice demand letter requesting payment within

thirty (30) days of the date of the letter and setting forth that failure to comply shall result in the referral of the matter to the Administration's Legal Counsel or the Office of the Attorney General.

- (3) Upon passage of the final thirty (30) day period without payment or agreement as to the means of payment, the Administration shall issue a written final notice which states that the matter has been referred to the Administration's Legal Counsel or the Office of the Attorney General for legal action. The Administrator shall inform the Board of all such referrals.

The Administrator may waive or extend the time-frame requirements set forth above when in his or her opinion such waiver or extension makes good economic sense and provides for a more efficient collection effort. Such waivers of extension shall be brought to the attention of the Board. The Board shall have the right to void the Administrator's determination of waiver or extension. [Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

Section 705. Delinquency

Every effort shall be made to collect on any amount owed to the Administration. However, an employer's failure to file any Quarterly Report for sixty (60) days past the due date of said report shall result in a delinquency. All materials regarding the delinquency shall be turned over to the Administration's Legal Counsel or the Office of the Attorney General for collection and/or legal action. [Source 41 PNC & SSA By-Laws]

Section 706. Interest Assessment

Interest shall be assessed in accordance with 41 PNC § 772 and shall not be waived by the Board unless the Board finds that there are exceptional circumstances of unless debt is to be "written off" for accounting purposes. [Source 41 PNC § 772 & By-Laws]

Interest shall be charged at an annual rate of twelve percent (12%) for any amount of tax due beyond the end of the month following the final filing date or the next business day if the final filing date falls on a weekend or holiday.

Section 707. Penalty Assessment

A penalty shall be assessed to each employer who does not file the Quarterly Report within the one-month filing period. Penalties shall be two hundred and fifty dollars (\$250.00) or one hundred percent (100%) of the amount due, whichever is greater. Penalties shall be assessed as follows:

- (a) Individual employers of domestic helpers, general laborers, farmers, and fishermen shall be assessed a maximum penalty equal to one hundred percent (100%) of the amount of contributions withheld for each quarter that such contributions are withheld.

- (b) An employer **who files late** but **within fifteen (15) days after the due date** and has **NOT filed late in the last six (6) quarters who files late**, shall be assessed a penalty of six point six percent (6.6%) per day.
- (c) An employer **who files late** and later than fifteen (15) days after the due date, and has **NOT filed late in the last six (6) quarters who files late** shall be assessed a penalty of one hundred percent (100%) per day. (Weekends and holidays shall be counted in the calculation of days.)
- (d) An employer who **has NOT filed by the due date and HAS been late filing at any time in the last six (6) quarters** shall be assessed a penalty one hundred percent (100%) per day. (Weekends and holidays shall be counted in the calculation of days.)
- (e) Other employers shall be assessed penalties in accordance with 41 PNC or as otherwise decided by the Board.

A request for waiver of penalties assessed or other considerations must be submitted in writing to the Administrator. The Administrator shall decide whether such request has merit. If, in the Administrator's opinion such request has merit or if such request provides mitigating circumstances, such request shall be presented to the Board at their next regularly scheduled meeting for consideration. Waiver and/or changes to any penalties assessed shall be made at the discretion of the Board. **[Source 41 PNC § 772]**

Section 708. Penalty Waiver Process

- (1) The employer must submit a written request to the Social Security Administrator and the Board of Directors requesting a penalty waiver. The written request shall briefly describe any circumstances involving the employer or his or her business that have resulted in the assessment of penalties. The Administrator shall complete a background check on the employer and make a written determination either approving or denying the penalty waiver.
- (2) The Administrator shall prepare a summary, which shall include his or her written determination, and present such summary to the members of the Board for their approval.
- (3) If the Board approves the penalty waiver (in full or in part), the Administrator shall take the necessary steps to implement the penalty waiver. If the penalty waiver is denied, it shall be put on the next Board meeting agenda for further and final discussion.
[Source 41 PNC § 772]

Section 709. Collection Report

A collection report shall be completed when interest and penalties are assessed. Upon payment of a delinquent report, a collection report shall be made in duplicate. One copy shall be provided for the employer and the original copy shall be retained for the Social Security files. [Source 41 PNC]

Section 710. Payment Agreements

The Administrator, when appropriate, may enter into a Payment Agreement with any debtor of the Administration. Any Payment Agreement entered into shall contain the following information:

- (1) Name of Owner and Business;
- (2) Employer Identification Numbers;
- (3) Social Security Numbers;
- (4) Principal, Interest, and Penalties;
- (5) Approximate Quarters of Delinquency;
- (6) Statement of Debt Liability Acknowledgment;
- (7) Amounts to be Paid;
- (8) Results of Breach of Agreement;
- (9) Debtor Signature;
- (10) Administrator Signature;
- (11) Any other information as may be required by the Administrator.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

Section 711. Bounced Checks

The Administration may accept business or personal checks for the payment of any sums owed. The Administration reserves the right to refuse any check from any person, business, or financial institution. Any person or entity that bounces a check to the Administration shall be assessed a returned check fee and/or interest. A bounced check shall be held for one quarter before being considered delinquent. When dealing with a bounced check the Administration shall retain the following information:

- Name of Person or Business
- Date Check Issued
- Amount of Check

The Administration shall not accept a check from a person or business that has an outstanding bounced check until that amount has been paid in full. The Administration shall not accept a check from a person or business that has bounced two (2) checks to the Administration. [Source 41 PNC]

PART VIII. OFFENSES AND PENALTIES

Section 801. Administrative Fees

The Administration may assess a fee to any person for noncompliance with 41 PNC or these rules and procedures which directly results in an administrative or other cost to the Administration. Examples of such administrative fees are as follows:

- Late fees;
- Filing or reporting fees;
- Auditing fees; and
- Noncompliance fees.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws]

Section 802. False Statement and Reports

A person who knowingly makes a false statement or falsifies any report to or record of the Administration in an attempt to defraud the Social Security System is guilty of a misdemeanor and is liable to imprisonment for a period not exceeding twelve (12) months or a fine of not more than two thousand dollars (\$2,000.00), or both. This section shall not preclude any criminal prosecution by the Office of the Attorney General under 17 PNC. [Source 41 PNC § 771]

Section 803. Failure to Report or Pay

An employer who fails to report any amount of remuneration paid or fails to pay any amount of contributions due to the System is liable for a civil penalty, at the discretion of the Board, of not more than one hundred percent (100%) of the amount of any contributions withheld or two hundred fifty dollars (\$250.00), whichever is greater. [Source 41 PNC § 772(a)]

Section 804. Knowingly Fail to Report or Pay

An employer who knowingly fails to report any amount of remuneration paid or knowingly fails to pay any amount of contributions due to the System is guilty of a misdemeanor and is liable for a fine of not more than two thousand dollars (\$2,000.00). This section shall not preclude any criminal prosecution by the Office of the Attorney General under 17 PNC. [Source 41 PNC § 772(b)]

Section 805. Nonpayment

If any contribution or penalty imposed by 41 PNC is not paid on or before the date prescribed for such payment, there shall be collected, in addition to such contribution and penalty, interest on the unpaid balance of the contribution or penalty at the rate of twelve percent (12%) per annum from its due date until the date it is paid. In the event that any contributions, interest, or penalty due under 41 PNC is referred to an attorney for collection, whether or not suit is brought for the collection thereof, the employer shall additionally be liable for reasonable attorney's fees and

costs of collection, including court costs. The amount of any civil penalty, interest, attorney's fee or cost of collection shall be paid to the Retirement Fund. **[Source 41 PNC § 772(c)]**

Section 806. Lien for Contributions

All contributions, including penalties, interest accrued, and attorney's fees thereon, imposed or authorized under 41 PNC shall be a lien upon any property of the employer, having priority over all other claims and liens including liens for other taxes, and may be collected by levy upon such property in the same manner as the levy of an execution. **[Source 41 PNC § 807]**

Section 807. Front Businesses

The Administration shall report any suspected front businesses, as regulated in 28 PNC, to the Office of the Attorney General and the Foreign Investment Board. In making such determination that a business is suspected of "fronting" for a foreign person or operation the Administration shall consider the following factors:

- (1) Whether the Palauan business license holder participate in the management or operations of the business (such as paying taxes, hiring/firing employees, business decisions, etc.);
- (2) Whether the Manager of the business is a non-citizen who makes all management and operational decisions of the business;
- (3) Whether the Palauan business license holder and non-citizen Manager have an Agreement in which the Manager agrees to pay the Palauan a monthly fee (usually around (\$350.00)) and the Palauan agrees not to interfere in the business;
- (4) Whether the non-citizen Manager (and the Palauan business license holder) have a foreign investment approval certificate ("FIAC") issued by the Foreign Investment Board; and
- (5) Whether the non-citizen Manager or the Palauan business owner have been prosecuted or convicted under 28 PNC, 40 PNC, 17 PNC, or 41 PNC in the past.

[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 28 PNC]

PART IX. ETHICS AND SECRECY

Section 901. Nonpublic Information

No employee may use information acquired in the course of official employment for personal gain until such information has been made available to the general public. **[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]**

Section 902. Secrecy

If a member of the Board or employee of the Administration reveals to any other person any information about an employer, an employee or a person receiving a benefit under 41 PNC that has come to his or her knowledge by virtue of his or her employment with the Administration, that person may be found guilty of a misdemeanor and imprisonment for a period of not exceeding twelve (12) months or a fine of not more than two thousand dollars (\$2,000.00), or both. The following shall not be considered a breach of this section:

- Disclosure of information for any function or purpose under 41 PNC;
- Disclosure of information as required by order of a court, subpoena, or warrant;
- Disclosure of information when there is suspected criminal activities;
- Disclosure in cooperation with an investigation with the Ministry of Finance, the Office of the Attorney General, or any other government investigation or prosecution; or
- Any other disclosure that is authorized by the Board.

[Source 41 PNC § 773]

Section 903. Administration Property

No employee may use Administration equipment, facilities, assets, or property for private or political use. [Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 904. Disclosure of Interests

Each employee shall disclose, in writing, all financial interests that may be subject to 41 PNC. For purposes of this section “financial interest” means:

- (1) Any business entity in which an employee has a direct or indirect ownership interest;
- (2) Any real or personal property in which an employee has a direct or indirect ownership interest, including a leasehold interest, having a fair market value of one thousand dollars (\$1,000.00) or more;
- (3) Any source of income, including compensation and gifts, and loans from sources other than commercial lending institutions made in the normal course of business, aggregating five hundred dollars (\$500.00) or more in value received by or promised to the employee during the preceding twelve (12) months;

- (4) A directorship or officership in a business;
- (5) Any source of contributions aggregating one thousand dollars (\$1,000.00) or more in value received by or promised to the employee during the preceding four (4) years.

As used in this section, “indirect ownership interest” means any interest owned by the spouse or dependent children of an employee or by an agent on behalf of an employee, or the pro rata share of an interest owned by a business entity in which an employee or an employee’s spouse or dependent children cumulatively own a ten percent (10%) or greater interest. [Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 905. Conflict of Interest

- (a) No employee may take, participate in taking, or use his or her position to attempt to influence any official action where it is reasonably foreseeable that the action could have a material financial effect on that employee, or on any financial interest of that employee, that is different from the effect on the public generally. Any employee who is unable to disqualify his or herself on any matter because he or she is the only person authorized by law to perform the official action must disclose such interest.
- (b) No employee may acquire a financial interest in any business or other undertaking which he or she has reason to believe may be directly affected by official actions to be taken unless such interest is disclosed.
- (c) No employee may assist any person for compensation or act in a representative capacity before any national or state government agency in any matter that relates in any way to the Social Security duties or responsibilities of the employee.
- (d) No employee may use or attempt to use their employment or position to secure or grant privileges, exemptions, advantages, contracts, or treatment, for his or herself or others, including but not limited to the following:
 - (1) Seeking other employment or contracts for services for the employee by the use or attempted use of the employee’s employment or position; and
 - (2) Soliciting, receiving or accepting compensation or other consideration for the performance of the employee’s duties or responsibilities except as provided by law;
 - (3) Soliciting, receiving or accepting any gift or other item of monetary value from any person seeking official action from, doing business with, or conducting activities regulated by the Social Security Administration, or from any person whose interests may be substantially affected by the performance or nonperformance of the employee’s duties; provided that this subsection shall not apply to wedding gifts, customary gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

- (e) No employee may engage in any outside employment or other outside activity that is incompatible with the full and proper discharge of the employee's position or employment.

ALL DISCLOSURES SHALL BE MADE TO THE ADMINISTRATOR IN WRITING.
[Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 906. Recusal

An employee who has disclosed a conflict of interest shall recuse his or herself from working on or hearing any matter pertaining to the conflict of interest unless the Administrator deems it appropriate for that employee to act or hear the conflicted matter.

For example, a collections officer may not collect or reach any agreement with a business in which the collections officer holds a disclosed significant financial interest unless the Administrator deems such action appropriate.

Or, a benefits officer may not determine benefit rights for a beneficiary they are related to unless such relationship is disclosed and the Administrator deems such action appropriate. [Source 41 PNC § 711, § 712(d), § 724 & SSA By-Laws; 33 PNC]

Section 907. Mismanagement of Fund.

Any person who has a fiduciary relationship with the Fund, including but not limited to any member of the Board and the Administrator, who is found guilty of mismanagement of the Fund, whether by malfeasance, breach of fiduciary duties or other action, shall be guilty of a felony and is liable to imprisonment for a period not to exceed fifteen (15) years or a fine of not more than one hundred thousand dollars (\$100,000.00) or both. [Source 41 PNC § 774]

APPROVED ON THIS DAY ____, IN THIS MONTH _____, 2007.

MARINO BELLS,
CHAIRMAN

FLORENCIA RIROU,
VICE CHAIRMAN

FRANCIS MEYAR,
SECRETARY/TREASURER

SEKANG SHMULL,
MEMBER