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April 9, 2020

The Honorable Bobby Scott
Chairman
House Committee on Education and Labor
1201 Longworth House Office Building
Washington, DC 20515

Re: Uncertainty on Applicability of Federal Pandemic Unemployment Compensation to Guam

Dear Chairman Scott,

I want to thank you for your leadership that has led to the unprecedented inclusion of billions of dollars for education and labor-related initiatives contained in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. I write to you with urgency relative to the uncertainty of the applicability of the Federal Pandemic Unemployment Compensation (FPUC) (additional \$600 weekly) to Guam and our people pursuant to Section 2104, Subtitle A, Title II, Division A of the CARES Act.

This uncertainty comes as a result of direct communications with the U.S. Department of Labor (USDOL) to which their initial guidance on March 30, 2020 was that Guam was not eligible for the FPUC. Despite the efforts of the Guam Department of Labor in collaboration with the Guam Economic Development Authority and my insistence that Guam should be included, as recently as April 9, 2020 the issue was still under USDOL review. This determination was provided by the USDOL during a conference call meeting on April 9, 2020 for the Region 6 State and Territory agencies.

As a background to the issue at hand, Section 2102 of the CARES Act creates the Pandemic Unemployment Assistance (PUA) Program that is extended to all U.S. Territories under Section 2102(a)(5) as the definition of State is expanded as such. Although this may be the case, and as I previously mentioned, the USDOL has yet to explicitly determine that the FPUC under Section 2104 is applicable to Guam. This uncertainty appears to be due to the language found under Section 2104(i)(1), which defines State for the purposes of the FPUC as only the 50 states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico. This definition of State was taken from Section 205 of the Federal-State Extended Unemployment Compensation Act of 1970. These seemingly conflicting definitions is why I believe the USDOL has not explicitly determined the applicability of the FPUC to Guam.

Nevertheless, I sent two letters to Secretary Scalia, urging the FPUC program's applicability to Guam. In my initial letter to Secretary Scalia dated April 3, 2020, I pointed to the PUA Program citation under Section 2102(d)(1)(ii) which defines the amount of assistance to States (as defined under Section 2102(10)(5) which

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includes Guam) to include “the amount of Federal Pandemic Unemployment Compensation under Section 2104,” in addition to the weekly benefit as defined in Section 2102(d)(1)(i).

My second letter to Secretary Scalia dated April 8, 2020 came on the heels of Unemployment Insurance Program Letter No. 16-20 (Advisory) release by the USDOL, which discussed the PUA Program Operating, Financial, and Reporting Instructions. I thanked him for his efforts as our initial reading of the Advisory under item 4(a) appeared to include FPUC applicability to Guam and the other U.S. Territories. Item 4(a) of the Advisory stated that “...individuals eligible to receive PUA are also eligible to receive FPUC, authorized under section 2104 of the CARES Act,” and continues on to state, “The PUA program is administered through a voluntary agreement between States and the Department. The program is available in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, **Guam**, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, provided the state/territory signs an agreement with the Department.”

Although my contention and urging of the statutory authority and guidance contained in a USDOL publicly released Advisory of the applicability of the FPUC on Guam was clear in my review, the subsequent conference call meeting on April 9, 2020 I previously mentioned, indicated that the applicability of FPUC on Guam was still under review.

It is my hope that with your assistance—alongside your fellow House Committee on Education and Labor member Congressman Gregorio Kilili Sablan, who has been a tireless advocate of this very issue as it also has an impact on his constituents—may lead to not only a favorable outcome by the USDOL, but also one that is fair and does not leave out the thousands of people in the U.S. territories that could be excluded from assistance that they are in dire need of.

Again, I humbly request your assistance as Chairman of the House Education and Labor Committee to ensure that we do not leave any eligible individuals, including the thousands living on Guam, out of receiving the FPUC. Thank you for your kind attention to this matter and your continued work to address this unprecedented pandemic that has caused so much suffering to our families throughout the country—and throughout the world.

Senseremente,



LOURDES A. LEON GUERRERO
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Governor of Guam

cc via email: *Sigundo Maga'låhen Guåhan*