

Organization Information Extracted from: sections 401–407.docx

****PART 1: Information for ROPSSA****

Section 401. Evidence of Entitlement

• The Administrator may 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.

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;
- 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.

- Any change to a date of birth that would mean an earlier claim on a retirement benefit or a retroactive payment is not allowed if the change was made within 12 months prior to application for benefit.

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 a physical body. When there is no physical body, a person shall be presumed dead (death in absentia) upon (1) a party petitioning a Court to issue a determination of death or recognize an issued certificate of death; or (2) after five (5) years the Administrator or Board may make a determination that a person is presumed dead; or (3) a death certificate issued by a recognized medical professional in conjunction with a waiver of liability for the payment of benefits.

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.

Section 404. Guardianship

- Unless other evidentiary documents are presented, the Administration shall presume that the birth parents of a child or impaired adult are the legal guardians. The following evidentiary documents may prove or disprove guardianship:
 - A final court order, including a custody determination or adoption papers, from any duly recognized jurisdiction naming a legal guardians;
 - A valid affidavit signed by one or both of the birth parents relinquishing guardianship to another party;
 - Documents showing dependency such as bills for necessities including food, shelter, school, etc.;
 - Statements made by the child or impaired adult at issue; and
 - If the above evidence is unavailable, 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 or impaired adult 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 or impaired adult to a legal guardian shall be held in trust for that child or impaired adult 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 or impaired adult for their personal use.

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.).

Section 406. Other Judicial Matters

- The Administration may 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.

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.