YOSITAKA ADACHI on behalf of KOROR STATE GOVERNMENT, MAGDALENA ANTONIO, MARLENA SATO, and JOHN KINTARO, JR.,
Plaintiffs,

v.

REPUBLIC OF PALAU, THE NATIONAL HEALTHCARE FINANCING GOVERNING COMMITTEE, KERAI MARIUR, STEVENSON KUARTEI, GREGORIO NGIRMANG, LEILANI REKLAI, and MASON WHIPPS, each in their official capacities,
Defendants.

CIVIL ACTION NO. 10-167

Supreme Court, Trial Division
Republic of Palau

Decided: August 5, 2011

Counsel for Plaintiffs: James E. Hollman
Counsel for Defendants: Alexis G. Ortega

ARTHUR NGIRAKLSONG, Chief Justice:

Before the Court are Plaintiffs' and Defendants' cross-motions fro summary judgment and Defendants' motion for judgment on the pleadings. The Court, having reviewed the motions, responses and replies, **GRANTS** Defendants' motion for summary judgment and **DENIES** Plaintiffs' motion for summary judgment.

I. BACKGROUND

There is no dispute as to the material facts in this case. Indeed, the resolution of this case rests on the constitutionality of a statute. The "National Healthcare Financing Act" ("HCFA") became effective on May 7, 2010. RPPL 8-14, *codified at* 41 PNC §§ 901, *et seq*. The HCFA "require[s] each resident in the Republic of Palau to have coverage for healthcare costs he or she incurs; to establish a national Medical Savings Fund in the Republic of Palau and to provide for a Palau Health Insurance System in the Republic of Palau; and for other related purposes." *Id*. The primary legislative finding of the NCFA is that "Article VI of the Constitution provides that the National Government take positive action to promote the health and social welfare of the citizens of the Republic of Palau through the establishment of a health care finance system that provides free or subsidized health care for citizens of the Republic of Palau." RPPL 8-14, § 1. Further legislative findings include that the cost of delivery of health care services is increasing, as are accounts receivable at the Ministry of Health. *Id.* "The Olbiil Era Kelulau believes that a way to meet its constitutional responsibility while dealing with these various issues is through establishing a government-managed health system that will provide health care for all residents of Palau." *Id.*

On September 28, 2010, Plaintiffs filed this action against Defendants, alleging that the HCFA is unconstitutional because it substantially impairs contract, violates the rights to substantive due process and equal protection under the law, and constitutes an excessive delegation of legislative authority.

II. STANDARDS FOR GRANTING JUDGMENT ON THE PLEADINGS AND SUMMARY JUDGMENT

Judgment on the pleadings is appropriate when, after the pleadings are closed, the court determines that there is no material issue of fact presented and that one party is clearly entitled to judgment. ROP R. Civ. P. 12(c); *Gibbons v. Republic of Palau*, 1 ROP Intrm. 634, 640 (1989). The motion for a judgment on the pleadings only has utility when all material allegations of fact are admitted in the pleadings and only questions of law remain. *Gibbons*, 1 ROP Intrm. at 641. Because the Court will take into account matters outside the pleadings, Defendants' motion for judgment on the pleadings will be treated as one for summary judgment. *See* ROP R. Civ. P. 12(c).

Summary judgment shall be granted if the pleadings, depositions, answers to interrogatories, admissions, or affidavits show that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. ROP R. Civ. P. 56(c). In reviewing a motion for summary judgment, all doubts must be resolved against the movant, and the motion must be denied if the non-movant identifies some evidence in the record demonstrating a genuine factual dispute on a material issue. *Dilubech Clan v. Ngeremlengui State Gov't*, 8 ROP Intrm. 106, 108 (2000). Identical standards apply where there are cross-motions for summary judgment. *Rechelulk v. Tmilchol*, 2 ROP Intrm. 277, 282 (1991).

III. DISCUSSION[1]

A. Parties' Arguments

In their motion for summary judgment, Plaintiffs argue that the HCFA: (1) violates their right to equal protection under the law because it discriminates on the basis of place of origin and disability; (2) is an unconstitutional delegation of legislative authority because it allows the National Healthcare Financing Governing Committee to modify the subscription rate to the Palau Health Insurance system; (3) violates their rights to substantive due process because it amounts to a taking from Koror State Government's funds in violation of its appropriation laws, and constitutes a forfeiture of funds of individual employees' contributions to their Medical Savings Accounts; and (4) is an impairment of contract because it substantially impairs employment contracts.

In their motion for judgment on the pleadings, or motion for summary judgment, Defendants argue the HCFA: (1) is rationally related to the legitimate legislative function of promoting health and social welfare of citizens through the provision of free or subsidized health care, consistent with Article VI of the Constitution; (2) is permitted

[1] Although decisions of the United States courts under various constitutional provisions are not binding upon this Court as to the meaning of language in our Constitution, they can and should be looked to for assistance. *See* 1 PNC § 303; *Republic of Palau v. Tmetchul*, 1 ROP Intrm. 443, 503–04 (1988). *See also Yano v. Kadoi*, 3 ROP Intrm. 174, 181 n.1 (1992) (Palau courts may look to U.S. case law for guidance, especially in those cases interpreting identical or similar constitutional provisions.).

delegation of legislative authority because it provides a mechanism for administrative officials to determine the details and rules for executing the general legislative plan consistent with the purposes to be achieved by the Act; and (3) is not an impermissible taking or impairment of contract because employment contracts are not substantially impaired and the statute is a valid exercise of the government's police powers.

For the purposes of the Court's discussion, the Court will first consider Plaintiffs' equal protection and substantive due process claims, followed by their claim of unconstitutional delegation of authority, and then their claim of unconstitutional impairment of contract.

B. Equal Protection Claim

The equal protection clause reads, in relevant part, that "[e]very person shall be equal under the law and shall be entitled to equal protection. The government shall take no action to discriminate against any person on the basis of sex, race, place of origin, language, religion or belief, social status or clan affiliation." ROP Const. art. IV, § 5.[2] There are at least two levels of judicial review when governmental action, such as a statute or conduct pursuant to law, is challenged under both the due process and equal protection clauses. The minimal level of judicial review is known as the "rational basis" test. *Perrin v. Remengesau*, 11 ROP 266, 269 (Tr. Div. 2004). In applying this level of review, governmental action will be upheld if there is a rational relationship between the action taken and the objective. *Id.* The challenger has the burden of proving that the statute or the governmental action has no rational relationship to its stated objective. *Id.*

The second and most stringent level of judicial review is used when constitutional rights have been violated or when governmental action creates "suspect" classifications, such as those based on race or national origin. *Id.* This level of review is known as "strict scrutiny." Under this test, a law or governmental conduct will only be upheld if it is necessary to achieve a "compelling" governmental purpose. *Id.* Here the government has the burden of proving that it has a "compelling interest." *Id.* To determine which of the two tests to use, the Court must determine whether the governmental action affects a fundamental right or creates a suspect class. *Id.*

Plaintiffs' equal protection claim fails because the HCFA neither implicates a fundamental right nor creates a suspect class. Plaintiffs first argue that the HCFA violates the equal protection clause because it discriminates on the basis of place of origin by not allowing Palauan citizens to withdraw funds from their MSAs if they ever permanently exit the Republic. Plaintiffs have neither left Palau (and been denied a request to withdraw funds from their MSAs), nor been deterred from leaving Palau because of their inability to withdraw funds from their MSAs. The situation presented by Plaintiffs is

[2] This language is closely patterned upon the equal protection clause of the Constitution of the United States: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws," U.S. Const. amend. XIV. The Fifth Amendment's due process clause also encompasses equal protection principles. *Matthews v. de Castro*, 97 S. Ct. 431, 436 (1976).

hypothetical, and the Court will not "entertain constitutional questions in advance of the strictest necessity." *Poe v. Ullman*, 8 S. Ct. 1752, 1756 (1961); *see also* 16 Am. Jur. 2d Constitutional Law § 118 ("Courts will not anticipate a constitutional issue in advance of the necessity of deciding it . . . ."). Plaintiffs have failed to show that there is a violation of a fundamental right.

There is a very good reason why the HCFA's provision allowing for the return of MSA funds to non-citizens who permanently exit the Republic does not implicate a fundamental right or create a suspect class. Under the Constitution, citizens of Palau have the right enter and leave the Republic.[3] However, non-citizens are not afforded this same unfettered opportunity to return to the Republic after exiting permanently. Under the HCFA, non-citizens who permanently exit the Republic are permitted to withdraw funds remaining in their MSAs after all payments due have been made from the account. 41 PNC § 941. Had the HCFA not permitted such withdrawal, non-citizens who permanently exit Palau and name no beneficiaries to their MSAs would lose the remaining balance in their MSAs. By not addressing the practical problem of what to do with an unspent MSA balance of a non-citizen who permanently exits the Republic, the HCFA ran the risk of improperly taking funds that were "specifically registered to a particular individual." 41 PNC § 901(k).

By contrast, there is no risk of improper taking under the HCFA for citizens of Palau. Citizens who choose to permanently exit the Republic still have the right to re-enter the country and use their MSAs and receive health care benefits. Moreover, the Palauan citizen who never returns to the Republic and names no beneficiaries will still have the unused balance of the MSA pass under § 963 priorities and not result in an unconstitutional taking. The only persons subject to a risk of permanent loss of the MSA balance are foreign workers with no beneficiaries and no constitutional right to return to the Republic. The HCFA's provision allowing for permanently exiting non-citizens to withdraw remaining funds from the MSAs is based on a compelling interest.

Plaintiffs' second argument under the equal protection clause is that the HCFA discriminates against individuals in need of treatment related to hemodialysis. For an interest to rise to the level of a constitutional right, the party seeking redress must have a legitimate claim of entitlement to it. *Perrin*, 11 ROP at 270 (finding that legal counsel had no meritorious constitutional claims of due process or equal protection because he could not show an entitlement to work even after the government terminated him). Because Plaintiffs have failed to show a constitutional right to care related to hemodialysis, this equal protection challenge fails as well.

[3] Article III, pertaining to citizenship, states that: "A person born of parents, one or both of whom are of recognized Palauan ancestry, shall have the right to enter and reside in Palau and to enjoy other rights and privileges as provided by the law . . . ." ROP Const. art. III, § 3. The Second Amendment then clarifies that "[a] person born of parents, one or both of whom are of recognized Palauan ancestry, is a citizen of Palau by birth." ROP Const. amend. II. Moreover, Article IV, pertaining to fundamental rights, states that: "A citizen of Palau may enter and leave Palau and may migrate within Palau." ROP Const. art IV, § 9.

Patients in need of care related to hemodialysis are not denied treatment because it is provided elsewhere. The legislative history of HCFA reveals that the Ministry of Health already provides treatment related to hemodialysis through a separate program. *See* Pl.'s Compl., Exhibit 3 at 8. Defendants further explain that this separate fund for hemodialysis would expire if treatment were covered elsewhere, such as under Palau Health Insurance. Hr'g on Cross-Motions for Summ. J., July 22, 2011. Thus, to protect the pre-established fund for hemodialysis, the HCFA excluded such treatment under Palau Health Insurance benefits. The Court finds that the HCFA's exclusion of care related to hemodialysis as a benefit under Palau Health Insurance is rationally related to the protection of the separately funded program through the Ministry of Health that already provides this medical care.

C. Substantive Due Process Claims

The due process clause states that, "[t]he government shall take no action to deprive any person of life, liberty, or property without due process of law." Palau Const. art IV, § 6. The doctrine of due process has two components: procedural and substantive. *Governor of Kayangel v. Wilter*, 1 ROP Intrm. 206, 209 (Tr. Div. 1985).[4] As with equal protection claims, under the due process clause, there are at least two levels of judicial review when governmental action is challenged. To determine whether to apply the rational basis test or strict scrutiny, the Court must determine whether the HCFA implicates a fundamental right or creates a suspect class.

Plaintiffs' first argument is that the HCFA violates Koror State Governor Yositaka Adachi's substantive due process rights because it forces him to violate the Koror State Government Constitution by diverting funds duly appropriated by the Koror State Government Budget to the Medical Savings Fund. Their second argument is that the HCFA violates substantive due process of individual Plainiff employees because their contributions made to the Medical Savings Fund are effectively forfeited. Neither of Plaintiffs' arguments affects a fundamental right or creates a suspect class. Thus, their substantive due process claims are subject to the rational basis test.

Where no fundamental right is impinged, for Plainitffs to establish a violation of substantive due process, they must prove that the government's action was "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." *Village of Euclid v. Ambler Realty Co.*, 47 S. Ct. 114, 121 (1926). Plaintiffs make no argument in their due process analysis as to whether the HCFA bears a rational relationship to its stated purpose of providing free or subsidized health care for residents of Palau. Their key argument—that they are effectively deprived of their property without compensation—is without merit. They are no deprived of property because each Plainitff employee has an MSA, which is "available for use by that covered individual and his or her designated beneficiaries beginning on the first day of the first quarter after the month in which contributions were reported and paid into the Medical Savings Fund." 41 PNC § 917(b). Moreover, Plaintiffs' argument that the Olbiil Era Kelulau ("OEK") failed to consider

[4] Plaintiffs do not bring a procedural-due-process claim.

alternative policy measures is insufficient to prove that the HCFA bears no rational relationship to the objective of providing free or subsidized healthcare to residents of Palau. Plaintiffs must demonstrate that there is no interpretation of the HCFA that rationally relates to the legislative function. *Republic of Palau v. Sisior & Tmol*, 3 ROP Intrm. 376, 383–84 (Tr. Div. 1991).

There is, at the very least, a rational basis for the HCFA because it was enacted in accordance with and in furtherance of Article VI of the Constitution, which requires the national government to take *positive action* to promote the health and social welfare of the citizens of the Republic through the provision of free or subsidized health care. RPPL 8-14, § 1. The OEK found that a way to meet its constitutional duty, while dealing with increasing health care costs and accounts receivable at the Ministry of Health, is through establishing a government-managed health care system. *Id.* The legitimacy of the legislative function cannot be reasonably disputed as it derives directly from a constitutional mandate. That there may be more effective or efficient means of executing this constitutional responsibility does not discount that there is a rational basis for the HCFA. "It is up to the legislature, not the courts, to decide on the wisdom and utility of legislation, and the legislature can do whatever it sees fit to do unless it is restrained by some express prohibition in the Constitution . . . ." *Sechelong v. Republic of Palau*, 6 ROP Intrm. 368, 369 (Tr. Div. 1997) (internal quotation marks omitted). Accordingly, because Plaintiffs fail to meet their burden of establishing that the HCFA has no rational relationship to its legitimate and constitutionally mandated objective of providing free or subsidized health care, the Court finds that the HCFA does not violate Plaintiffs' substantive due process rights.

D. Delegation of Legislative Authority Claim

Plaintiffs argue that the HCFA unconstitutionally delegates legislative authority because it allows the National Healthcare Governing Committee to modify the subscription rate two years after operations of the Palau Health Insurance System. The Constitution expressly permits the delegation of legislative authority to administrative agencies. ROP Const. art. IX, § 5 ("The Olbiil Era Kelulau shall have the following powers: . . . (15) to delegate authority to the states and administrative agencies . . . .").[5] So that there is no question as to the validity of the delegation of authority, a statute should "state[] the purpose which the [legislature] seeks to accomplish and the standards by which that purpose is to be worked out with sufficient exactness to enable those affected to understand these limits." *United States v. Rock Royal Co-op*, 59 S. Ct. 993, 1013 (1939).

Contrary to Plaintiffs' argument, the HCFA is a permitted delegation of legislative authority. The HCFA states the legislative purposes (RPPL 8-14, § 1; 41 PNC § 902); it establishes a framework for the general legislative plan by creating a National

[5] Although the U.S. Constitution contains no such provision allowing for delegation of legislative authority, U.S. courts have long-recognized that legislative power may be delegated so long as an intelligible principle is set for the guide the agency's regulations. *J.W. Hampton, Jr. V. United States*, 48 S. Ct. 348, 352 (1928).

Healthcare Financing Committee (41 PNC § 907), binding that Committee to the Administrative Procedures Act (41 PNC § 908(b)); appoints an Administrator for day-to-day functions (14 PNC § 909); sets standards for administrative costs and investments (41 PNC §§ 910, 911); requires coordination among the Ministry of Health, Ministry of Finance, and the Administration (41 PNC § 912); establishes specific parameters for both collections of contributions and for coverage for the MSAs and Palau Health Insurance (41 PNC §§ 917–46, 951–57); and addresses auditing, accounting, and records standard, privacy, enforcement, and event future improvement efforts for the programs (41 PNC §§ 958–63; RPPL 8-14, § 4). These provisions demonstrate that the HCFA meets the requirements for a valid delegation of legislative authority by stating a clear purpose, establishing a framework for administrative officials to achieve that purpose, and sufficiently describing the powers delegated to allow administrative officials to achieve that purpose, and sufficiently describing the powers delegated to allow administrative officials to determine the details and establish rules for executing the legislative plan.

Contrary to Plaintiffs' argument, the HCFA's provision permitting the modification of the subscription rate does not constitute an unconstitutional delegation of the OEK's authority to tax. Plaintiffs misunderstand the language of the HCFA pertaining to individual contributions to the Medical Savings Fund and the subscription fees for Palau Health Insurance. The subscription fee to Palau Health Insurance is not a tax. Rather, it is the cost for receiving coverage under Palau Health Insurance. *See* 41 PNC §§ 951, 952. For employees and the self-employed, the subscription costs for coverage under Palau Health Insurance is paid from the individual MSAs; the subscription rate for an individual is 2.25 % of his or her remuneration. 41 PNC § 952(b). This is the rate that is modifiable by regulation. 41 PNC § 952(d). The HCFA does not, as Plaintiffs misrepresent, permit regulation to modify the employee or employer contributions to the Medical Savings Fund, which are both set at 2.5 % of remuneration. 41 PNC § 924(a), (e).

As Defendants properly point out, Plaintiffs' claims of unconstitutional delegation rest entirely on allegations that omit key language from the HCFA. For example, they claim that the HCFA permits modifications of the established subscription rate by regulation after two years "based on . . . any approved changes in benefit provisions that will likely affect the financial situation of Palau Health Insurance in the future (41 PNC § 942(b)-(d)(3))." Pl.'s Am. Compl. ¶ 64. However, the statutory provisions governing modification of the initial 2.25 % rate state, in their entirety:

> (d) The subscription rate may be modified by regulation after two years of operations, if required to ensure sustainability of the Palau Health Insurance system, based on the following factors:
>
> > (1) the annual financial balance resulting from the operations of Palau Health Insurance;

> (2) the amount of return achieved on the investment of reserves;
> (3) any approved changes in benefit provisions that will likely affect the financial situation of Palau Health Insurance in the future.
>
> (e) The regulations shall also provide for:
>
> (1) a reduction in the subscription costs for individuals participating in preventive care programs, as certified by the Ministry of Health;
> (2) provisions allowing new enrollees to qualify for benefits of Palau Health Insurance after paying the subscription costs; and
> (3) any other changes in benefit provisions.

41 PNC § 952(d)–(e). Also contrary to Plaintiffs' claims, the HCFA sets forth standards for payments and withdrawals from the Medical Savings Fund for MSAs and Palau Health Insurance, to include that MSAs are used for healthcare services provided to covered individuals and for private health insurance premiums, 41 PNC § 939(a)(1) and (4), and that Palau Health Insurance covers payments to Belau National Hospital for inpatient medical services, subject to listed restrictions, and for off-island medical care as approved by the existing Medical Referral Committee using existing statutory standards found in 34 PNC § 333. 41 PNC § 955(a)(1) and (2).

When read in its entirety, the HCFA states a clear purpose, establishes a framework for administrative officials to achieve that purpose, and sufficiently describes the powers delegated to allow administrative officials to determine the details and establish rules of executing the general legislative plan. Accordingly, the HCFA meets the standards permitted delegation of authority.

D. Right of Contract Claim

Plaintiffs' final argument is that the HCFA is an unconstitutional impairment of contract because it provides for a 2.5 % deduction from Plaintiffs' paychecks. Specifically, Plaintiffs argue that because their employers agreed to share the obligation to pay the premium of their private health insurance, the national government is prohibited from establishing universal health insurance and medical savings account programs funded through contributions from paychecks.[6]

[6] The Court notes that Plaintiffs' argument is identical to their motion for temporary restraining order and preliminary injunction brought against Defendants on September 28, 2010, and includes no new evidence or argument. It appears to the Court that this argument is a renewal of Plaintiffs' motion for temporary retraining order and preliminary injunction.

Article IV, Section 6 of the Constitution states, in part: "Contracts to which a citizen is a party shall not be impaired by legislation."[7] This provision is similar in construction to the contract clause found in the Constitution of the United States.[8] United States courts have interpreted the United States contract clause to prohibit impairment of existing contracts only and not future contracts. *Ogden v. Saunders*, 25 U.S. (12 Wheat.) 213 (1827). This clause has long been recognized to yield to the police powers of the state. *See Stone v. Mississippi*, 101 U.S. (11 Otto) 814 (1879) (upholding constitutionality of state statute prohibiting lotteries as a necessary exercise of the state's police power); *Manigault v. Springs*, 26 S. Ct. 127, 130 (1905) ("the police power, is an exercise of the sovereign right of the government to protect the lives, health, morals, comfort, and general welfare of the people, and is paramount to any rights under contracts between individuals."). More recently, United States jurisprudence began to recognize the liberty of "freedom to contract," which covers both existing and future contracts, under the due process clauses of the Fifth and Fourteenth Amendments. *Lochner v. New York*, 25 S. Ct. 539 (1905) (invalidating a New York law prescribing maximum hours for work in bakeries). Just as under the contract clause, the liberty of freedom of contract under the due process clause is not absolute and uncontrollable. *West Coast Hotel Co. v. Parrish*, 57 S. Ct. 578, 581 (1937).

The liberty safeguarded by the Constitution "is liberty in a social organization which requires the protection of law against evils which menace the health, morals, and welfare of the people." *Id*. "The essential limitation of liberty in general governs freedom of contract in particular." *Id.* at 582. While Congress does not have the power to enact laws that directly and independently impair contracts, it "undeniably [] has the authority to pass legislation pertinent to any of the powers conferred by the Constitution however it may operate collaterally or incidentally to impair or destroy the obligation of private contracts." *Continental Illinois*, 55 S. Ct. at 608; *see also Chicago Burlington & Quincy R. Co. V. McGuire*, 31 S. Ct. 259, 262 (1911) ("Liberty implies the absence of

[7] This clause is enumerated among "fundamental rights" under Article IV. As discussed *supra*, the strict scrutiny test applies when a fundamental right is implicated. An argument could be made that the HCFA implicates Plaintiffs' right of contract and therefore must be subject to strict scrutiny. However, the HCFA is based on a constitutional affirmative duty of the national government to provide free or subsidized health care. ROP Const. art. VI. When two constitutional provisions appear to be at odds with each other, they must be read harmoniously. *See Ullman v. United States*, 76 S. Ct. 497, 501 (1956) ("[A]s no constitutional guaranty enjoys preference, so none should suffer subordination or deletion."). Here, the HCFA is based on both a specific constitutional mandate and the sovereign police power of the national government. ROP Const. art. IX, § 5, cl. 20. The public's interest in health care, including Plaintiffs', is included in this statute. The possible interests of the few must yield to those of the public.

[8] "No State shall . . . pass any . . . Law impairing the Obligation of Contracts . . . ." U.S. Const., art I, § 10, cl. 1. Although the United States contract clause applies only to the states and our contract clause only protects contracts of citizens, these two differences should detract from looking to United States case law for guidance as to the meaning of our contract clause.

arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community."). Such powers conferred by the United States Constitution are the inherent police powers of government to safeguard the vital interests of the people. *Energy Reserves Group, Inc. v. Kansas Power & Light Co.*, 103 S. Ct. 697, 704 (1983). Indeed, our Constitution expressly states that the OEK shall have the power " to provide for the general welfare, peace and security . . . ." ROP Const. art IX, § 5, cl. 20.

"Although the language of the Contract Clause is facially absolute, its prohibition must be accommodated to the inherent police power of the State 'to safeguard the vital interests of its people.'" *Energy Reserves*, 103 S. Ct. At 704 (quoting *Home Building & Loan Ass'n v. Blaisdell*, 54 S. Ct. 231, 238 (1934)). A "statute does not violate the Contract Clause simply because it has the effect of restricting, or even barring altogether, the performance of duties created by contracts entered into prior to its enactment." *Exxon Corp. v. Eagerton*, 103 S. Ct. 2296, 2305 (1983). Indeed, "the general words of the contract clause were not intended to reduce the legislative branch of government to helpless impotency." *Wood v. Lovett*, 61 S. Ct. 983, 993 (1941). A law does not violate the contract clause where the enactment was "addressed to the 'legitimate end' of protecting 'a basic interest of society,' and not just for the advantage of some favored group." *Keystone Bituminous Coal Ass'n v. DeBenedictis*, 107 S. Ct. 1232, 1251 (1987 (quoting *Blaisdell*, 54 S. Ct at 242).

The initial inquiry for whether there has been a violation of the contract clause or the liberty of freedom of contract is whether the law has "operated as a substantial impairment of a contractual relationship." *Energy Resources*, 103 S. Ct. at 704. "This inquiry has three components: whether there is a contractual relationship, whether a change in the law impairs that contractual relationship, and whether the impairment is substantial." *General Motors Corp. v. Romein*, 112 S. Ct. 1105, 1109 (1992). If a substantial impairment is shown, the next inquiry is whether the State, in justification, has "a significant and legitimate public purpose behind the regulation." *Energy Reserves*, 103 S. Ct. at 704. Once a legitimate public purpose has been identified, the final inquiry is whether the means chose to accomplish this purpose are reasonable and appropriate. *See id*. at 705. In this Court' view, the test for whether a statute violates the contract clause is substantially the rational basis test.

Here, the Plaintiffs fail to show that the HCFA substantially impairs any contractual obligation. Plaintiffs have provided no evidence—contracts or otherwise—to establish that there is a contractual relationship between Plaintiff employees and their employer. Even if their employment contracts are implied, Plaintiffs fail to establish that the HCFA substantially impairs those contracts. The obligation of a contract is impaired when a party is deprived of the benefits of the contract by law. 16B Am. Jur. 2d Constitutional Law § 775 (citing *Northern Pac. Ry. Co. v. Minnesota*, 28 S. Ct. 341 (1908). The change to the contract must take something away and not work to the complaining party's benefit. *Id.* Here, Plaintiffs only allege that their contributions under the HCFA make it more difficult to pay other financial obligations. The HCFA does

not prohibit them from maintaining their current private health insurance through their employers. Indeed, the HCFA permits individuals to use their MSAs to pay for private health insurance. 41 PNC § 939(a)(4). Moreover, Plaintiffs benefit from the HCFA because as long as they are a covered individual, they are guaranteed health insurance, including off-island medical care. 41 PNC § 955(a). Accordingly, Plaintiffs fail to establish that the HCFA substantially impairs their employment contracts.

Even if Plaintiffs demonstrated a substantial impairment, the government satisfies the next inquiry of demonstrating a significant and legitimate public purpose for the enactment. *Energy Reserves*, 103 S. Ct. at 704. An example of such a purpose is "the remedying of a broad and general social or economic problem." *Id*. at 704–05. Here, the legislative findings of the HCFA set forth the purpose of the statute, which is to provide free or subsidized health care for all residents of Palau by creating a health care system and financing plan that is fiscally sustainable.[9] Contrary to Plaintiffs' argument, the HCFA's public purpose is clear and is not merely to address increased health care costs and accounts receivable at the Ministry of Health. As the basis for implementing a government-managed health care system, the OEK specifically cites to Article VI of the Constitution, which states that "[t]he national government *shall* take positive action to attain the[] national objective[] and implement the national polic[y] . . . [of] promotion of the health and social welfare of the citizens through the provision of free or subsidized health care." (Emphasis added). Undoubtedly, this provision is a constitutional mandate, not merely an aspirational objective as Plaintiffs' suggest, which is among the most significant and legitimate of public purposes.

Because the HCFA has a significant and legitimate public purpose, the final inquiry is whether the means chose to accomplish this purpose are reasonable and appropriate. *See Energy Reserves*, 103 S. Ct. at 704–05. Unless the state itself is a contracting party, "courts properly defer to legislative judgment as to the necessity and reasonableness of a particular measure." *Id.* at 705. The government does not have to prove that its enactment is the best among the available alternatives of addressing the public interest; rather, the challenger of the statute must demonstrate that there is no rational relationship between the state's ends and means. *United States Trust Co. of New York v. New Jersey*, 97 S. Ct. 1505, 1518 (1977). Here, the OEK specifically found that a government-managed system that combines medical savings accounts and universal health

[9] "Legislative findings. Article VI of the Constitutional provides that the National Government take positive action to promote the health and social welfare of the citizens of the Republic of Palau through the establishment of a health care finance system that provides free or subsidized health care for citizens of the Republic of Palau. Today, health care serves, with their increasing costs of delivery, along with a continued escalating accounts receivable at the Ministry of Health, call for the establishment of a health care financing plan that is fiscally sustainable within the context of annual budgetary and revenue constraints. This is to meet the demand for a health system that is comprehensive in scope and coverage that meets the needs of a growing population." RPPL 8-14, §1.

insurance coverage, with safety nets to ensure access regardless of ability to pay, addresses the requirements of Article VI of the Constitution. These legislative findings demonstrate the reasonableness and appropriateness of the HCFA, and Plaintiffs' offer nothing to demonstrate that no rational relationship exists between the purposes and the actual HCFA enactment. Accordingly, Plaintiffs fail to demonstrate that the HCFA is an unconstitutional impairment of contract.

IV. CONCLUSION

For the reasons discussed above, the Court GRANTS Defendants' motion for summary judgment and **DENIES** Plaintiffs' motion for summary judgment.