

EN BANC

[G.R. No. 212022, August 20, 2019]

**PHILIPPINE INSTITUTE FOR DEVELOPMENT STUDIES,
PETITIONER, V. COMMISSION ON AUDIT, RESPONDENT.**

DECISION

LEONEN, J.:

The doctrine of qualified political agency acknowledges the multifarious executive responsibilities that demand a president's attention, such that the delegation of control power to his or her Cabinet becomes a necessity. Unless the Constitution or law provides otherwise, Cabinet members have the president's imprimatur to exercise control over the offices and departments under their respective jurisdictions, which authority nonetheless remains subject to the president's disapproval or reversal.^[1]

This Court resolves a Petition for Certiorari^[2] challenging the Decision^[3] of the Commission on Audit, which upheld the validity of Notice of Disallowance No. 11-001-(06-10) disallowing the Philippine Institute for Development Studies' procurement of group healthcare maintenance totaling P1,647,235.06.

On June 11, 1978, former President Ferdinand E. Marcos (Marcos) issued Presidential Decree No. 1597,^[4] which provided, among others, that government employees may be granted allowances, honoraria, and other fringe benefits, subject to the approval of the President. It read:

Section 5. Allowances, Honoraria, and Other Fringe Benefits. Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. For this purpose, the Budget Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.^[5]

Pursuant to this provision, former President Fidel V. Ramos issued Administrative Order No. 402,^[6] which authorized government agencies and government-owned and controlled corporations to establish an annual medical checkup program:

Section 1. Establishment of the Annual Medical Check-up Program. An annual medical check-up for government officials and employees is hereby authorized to be established starting this year, in the meantime that this benefit is not yet integrated under the National Health Insurance

Program being administered by the Philippine Health Insurance Corporation (PHIC).^[7]

In conformity with Section 6 of Administrative Order No. 402,^[8] the Department of Health, Department of Budget and Management, and Philippine Health Insurance Corporation (PhilHealth) issued Joint Circular No. 01-98, which enumerated the examinations to be included in the annual medical checkup program, among others.^[9]

Sometime in 1999, the Philippine Institute for Development Studies, through its former Acting President Mario B. Lambarte, wrote then Health Secretary Alberto G. Romualdez (Health Secretary Romualdez) and PhilHealth. It requested that it be authorized to establish a health maintenance program in the form of a free annual medical checkup through their membership in a private health maintenance organization, in lieu of the annual medical checkup under Administrative Order No. 402.^[10]

In an August 31, 1999 letter,^[11] then Health Secretary Romualdez sought the Department of Budget and Management's opinion on whether the Philippine Institute for Development Studies may be exempted from the coverage of Joint Circular No. 01-98. He expressed in the letter, however, that he had no objection to the request.

In its September 30, 1999 letter,^[12] PhilHealth, through Senior Vice President Reynaldo N. Dalma, Jr., informed the Philippine Institute for Development Studies that, like the Department of Health, it had no objection to the request.

Similarly, in a January 20, 2000 letter,^[13] the Department of Budget and Management, through Budget Secretary Benjamin E. Diokno, expressed that it had no objection to the request. However, the Philippine Institute for Development Studies was advised that since the medical checkup program's establishment was made through an administrative order issued by the President, it must likewise seek exemption from the Office of the President.

Thus, the Philippine Institute for Development Studies sought the President's approval.^[14]

On March 1, 2000, the Office of the President, through Senior Deputy Executive Secretary Ramon B. Cardenas (Senior Deputy Executive Secretary Cardenas), responded:

Upon the recommendation of the Department of Budget and Management (DBM), Department of Health (DOH) and *Philippine Health Insurance Corporation (PHIC)*, please be informed that the request of the Philippine Institute for Development Studies (PIDS) for establishment of an **Annual Medical Check-Up Program** thru enrollment with duly accredited Health Maintenance Organizations (HMO), in lieu of the Annual Medical Health Program authorized under Administrative Order No. 402, dated 2 June 1998, as implemented by DOH-DBM-PHIC Joint Circular No. 01, dated 9 September 1998, **is hereby approved**, *subject to the usual accounting and auditing rules and regulations.*^[15] (Emphasis supplied)

Armed with the Office of the President's approval, the Philippine Institute for Development Studies executed a Health Care Agreement with PhilamCare Health

System, Inc. (PhilamCare) on April 19, 2005.^[16] Under the agreement, PhilamCare would provide 54 employees of the Philippine Institute for Development Studies with outpatient, hospitalization, and emergency services.^[17]

Upon post-audit, the Audit Team Leader issued Audit Observation Memorandum No. 2005-001 finding that the payment to PhilamCare was contrary to Commission on Audit Resolution No. 2005-001. The Philippine Institute for Development Studies was directed to discontinue further payment for the transaction.^[18]

In a letter-reply, the Philippine Institute for Development Studies argued that the procurement of the health maintenance program from PhilamCare was undertaken pursuant to Administrative Order No. 402.^[19]

On April 25, 2006, after further evaluation, the Legal and Adjudication Office-Corporate issued Notice of Disallowance No. PIDS 2006-01 to the Philippine Institute for Development Studies. The notice disallowed the amount of P324,700.01, which represented the annual membership fees of its 54 employees under the Health Care Agreement.^[20]

In a June 19, 2007 Decision, the Legal and Adjudication Office-Corporate affirmed this disallowance.^[21]

Thus, the Philippine Institute for Development Studies filed before the Commission on Audit a Petition for Review.^[22] The Petition was eventually denied in a February 16, 2012 Decision,^[23] which the Philippine Institute for Development Studies then assailed before this Court^[24] in a case docketed as G.R. No. 200838. This Court, in a April 21, 2015 Unsigned Resolution, found that the Petition lacked merit.

Meanwhile, as the Commission on Audit's resolution on Notice of Disallowance PIDS No. 2006-01 was still pending, the Philippine Institute for Development Studies again wrote the Office of the President on March 19, 2007. It requested authority for the continued implementation of its health maintenance program from 2005 onwards notwithstanding the issuance of Notice of Disallowance PIDS No. 2006-01.^[25]

The Office of the President referred the letter to then Health Secretary Francisco T. Duque III (Health Secretary Duque) and then Budget Secretary Rolando Andaya, Jr. (Budget Secretary Andaya) for recommendation and appropriate action.^[26]

Acting on the Office of the President's endorsement, Health Secretary Duque recommended^[27] the continued implementation of the Philippine Institute for Development Studies' health maintenance program.

Budget Secretary Andaya^[28] likewise recommended that the Philippine Institute for Development Studies be granted authority to continue the implementation of its annual medical checkup program through enrollment in duly accredited health maintenance organizations from 2005 onwards.^[29]

Meanwhile, in its July 13, 2007 letter,^[30] PhilHealth informed the Philippine Institute for Development Studies that it has not yet included the annual medical checkup in the benefit package it was developing:

Please be informed that in our opinion, this is not within the authority of the Philippine Health Insurance Corporation (PhilHealth) to make recommendations whether or not a government institution like the PIDS should continue implementing their Health Maintenance Program. The issue, we believe is between PIDS and Office of the President, who has sole authority to grant or not to grant the request.

We have written your office in 2006 informing that we have not yet included the annual medical check up in the benefit packages being developed by PhilHealth, and this situation is still existing up to now.^[31]
(Emphasis supplied)

Based on the Department of Health's and the Department of Budget and Management's recommendations, the Office of the President, through Executive Secretary Eduardo R. Ermita (Executive Secretary Ermita), finally granted the Philippine Institute for Development Studies' request to continue implementing their annual medical checkup program through enrollment with duly accredited health maintenance organizations. As with the previous approval, this also came with the same condition that it is subject to the usual accounting and auditing rules and regulations.^[32]

Thus, the Philippine Institute for Development Studies continued to implement its health maintenance program and eventually executed healthcare agreements with different insurance companies from 2006 to 2010.^[33] All the procurements totaled P1,647,235.06.^[34]

This amount, however, was disallowed upon audit by the Audit Team Leader and Supervising Auditor in Notice of Disallowance No. 11-001-(6-10) dated May 23, 2011. The amount was disallowed for being violative of the February 3, 2005 Commission on Audit Resolution No. 2005-001, which the Audit Team Leader and Supervising Auditor said prohibits the procurement of healthcare insurance from private agencies.^[35]

Aggrieved, the Philippine Institute for Development Studies appealed before the Commission on Audit's Corporate Government Sector Cluster C (COS-Cluster C).^[36]

In its August 11, 2011 Decision,^[37] the COS-Cluster C granted the appeal and lifted Notice of Disallowance No. 11-001-(6-10).

As per protocol, the August 11, 2011 Decision was elevated to the Commission on Audit Proper for automatic review.^[38]

In its March 18, 2014 Decision,^[39] the Commission on Audit Proper set the CGS-Cluster C's Decision aside and upheld the validity of Notice of Disallowance No. 11-001-(06-10).^[40]

In so ruling, the Commission on Audit Proper noted that Administrative Order No. 402 only provides government employees with a medical checkup program limited to diagnostic medical procedures, such as physical examination, chest x-ray, complete blood count, urinalysis, stool examination, and ECG.^[41] Since the Philippine Institute for Development Studies entered into agreements that provide

more than just medical checkups and include hospitalization, outpatient, and emergency benefits, their disallowance was deemed proper.^[42]

Moreover, the Philippine Institute for Development Studies' invocation of Commission on Audit Decision No. 2002-272, which lifted the disallowance of a similar benefit, was given scant consideration. The Commission on Audit Proper noted that the Decision was issued in 2002, when the prohibition under Commission on Audit Resolution No. 2005-001 did not yet exist. Here, it noted, Notice of Disallowance No. 11-001-(06-10) was issued precisely for violation of the 2005 resolution.^[43]

Thus, the Philippine Institute for Development Studies filed this Petition for Certiorari^[44] under Rule 64 of the Rules of Court. With it comes a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin the Commission on Audit from enforcing its March 18, 2014 Decision.^[45]

Petitioner argues that the Commission on Audit erred in ruling that it violated Administrative Order No. 402. It stresses that the President, as an exercise of authority under Presidential Decree No. 1597, allowed it to avail of medical benefits other than those in the administrative order.^[46]

Petitioner further contends that the Commission on Audit Proper gravely erred when it applied Commission on Audit Resolution No. 2005-001.^[47]

Petitioner stresses that the healthcare insurance it acquired from health maintenance organizations cannot be considered as disbursement of public funds because PhilHealth itself, in its July 13, 2007 letter, informed petitioner that it has not yet included the annual medical checkup in the benefit package it was developing.^[48]

Petitioner likewise contends that the Commission on Audit's March 18, 2014 Decision violates the constitutional guarantee to equal protection.^[49]

Petitioner cites *Province of Negros Occidental v. Commission on Audit*,^[50] where this Court set aside the Commission on Audit's disallowance of the Province of Negros' insurance premium payment to PhilamCare for hospitalization and health care benefits.^[51] It also again invokes the Commission on Audit's 2002 Decision, which lifted the disallowance of payment of group health insurance coverage for the Department of Labor and Employment and National Conciliation and Mediation Board employees.^[52]

Claiming that its employees are similarly situated with their counterparts in the cited cases, petitioner asserts that the Commission on Audit's failure to rule in a similar manner violates its constitutional right to equal protection.^[53]

Finally, petitioner stresses that even if Notice of Disallowance No. 11-001-(6-10) were valid, its officers and employees, who relied in good faith on the Department of Budget and Management's, the Department of Health's, and the Office of the President's approval, should be absolved of any liability.^[54]

In this Court's June 3, 2014 Resolution,^[55] a Temporary Restraining Order was issued enjoining the Commission on Audit from enforcing its March 18, 2014