

EN BANC

[G.R. No. 222710, September 10, 2019]

**PHILIPPINE HEALTH INSURANCE CORPORATION, PETITIONER,
VS. COMMISSION ON AUDIT, CHAIRPERSON MICHAEL G.
AGUINALDO, DIRECTOR JOSEPH B. ANACAY AND SUPERVISING
AUDITOR ELENA L. AGUSTIN, RESPONDENTS.**

RESOLUTION

GESMUNDO, J.:

This pertains to the Motions for Reconsideration^[1] seeking to reverse and set aside the July 24, 2018 Decision^[2] of the Court, which dismissed the petition filed by Philippine Health Insurance Corporation (*PhilHealth*). The petition sought to annul and set aside the April 1, 2015 Decision No. 2015-094^[3] and November 9, 2015 Resolution^[4] of the Commission on Audit (COA). The COA affirmed the July 23, 2012 Notice of Disallowance (ND) No. H.O. 12-005 (11) on the payment of longevity pay in the amount of P5,575,294.70, to the officers and employees of PhilHealth.

Antecedents

On March 25, 1992, Republic Act (R.A.) No. 7305, otherwise known as the Magna Carta of Public Health Workers, was signed into law. Section 23 thereof granted longevity pay to a health worker, to wit:

Section 23. Longevity Pay. - A monthly longevity pay equivalent to five percent (5%) of the monthly basic pay shall be paid to a **health worker** for every five (5) years of continuous, efficient and meritorious services rendered as certified by the chief of office concerned, commencing with the service after the approval of this Act.

Pursuant to R.A. No. 7305, former Department of Health (DOH) Secretary Alberto G. Romualdez, Jr., issued a Certification^[5] dated February 20, 2000, declaring PhilHealth officers and employees as public health workers.

On April 26, 2001, the Office of the Government Corporate Counsel (OGCC) issued Opinion No. 064, Series of 2001,^[6] stating that the term "health-related work" under Section 3 of R.A. No. 7305, includes not only the direct delivery or provision of health services but also the aspect of financing and regulation of health services. Thus, in its opinion, the PhilHealth officers and employees were deemed engaged in health-related works for purposes of entitlement to longevity pay.

On August 1, 2011, former PhilHealth President and Chief Executive Officer Dr. Rey B. Aquino issued Office Order No. 0053, Series of 2011,^[7] prescribing the guidelines on the grant of longevity pay, incorporating it in the basic salary of

qualified PhilHealth employees for the year 2011 and every year thereafter.

On January 31, 2012, the PhilHealth Board passed and approved Resolution No. 1584, Series of 2012, which confirmed the grant of longevity pay to its officers and employees for the period January to September 2011, in the total amount of P5,575,294.70.^[8]

On April 30, 2012, COA Supervising Auditor Elena C. Agustin (*Supervising Auditor*) issued Audit Observation Memorandum 2012-09 (11), stating that the grant of longevity pay to PhilHealth officers and employees lacked legal basis, and thus, should be disallowed.

On May 18, 2012, PhilHealth asserted that its personnel were public health workers, pursuant to the DOH Certification dated February 20, 2000, and OGCC Opinion No. 064, Series of 2001 dated April 26, 2011, and hence, are entitled to longevity pay under R.A. No. 7305.

Notice of Disallowance

On July 23, 2012, the COA Supervising Auditor issued ND No. H.O. 12-005 (11) disallowing the amount of P5,575,294.70 representing the payment for longevity pay. The officers who approved the disbursement and all payees were held liable under the said ND which stated that the amount was disallowed because it lacked legal basis.

PhilHealth received the ND on July 30, 2012. After 179 days from its receipt or on January 25, 2013, it filed its appeal memorandum before the COA Corporate Government Sector (CGS).

The COA-CGS Ruling

In its March 13, 2014 Decision,^[9] the COA-CGS affirmed the ND. It held that under Section 3 of R.A. No. 7305, a government health worker must be principally tasked to render health or health-related services; employees performing functions not directly related to health services are not public health workers. The COA-CGS underscored that PhilHealth's only responsibility is the payment of health services to covered beneficiaries, and that such payment cannot be equated to being a function directly related to health or to health-related services. Hence, it concluded that the officers and employees of PhilHealth were not entitled to longevity pay. The *fallo* reads:

WHEREFORE, premises considered, the instant Appeal is **DENIED**. Accordingly, ND No. H.O. 12-005 (11) dated July 23, 2012 is hereby affirmed.^[10]

PhilHealth received the Decision of the COA-CGS on March 25, 2014. It filed a motion for extension of time of thirty (30) days, from March 30, 2014 to April 30, 2014, to file its petition for review. On April 30, 2014, PhilHealth filed said petition before the COA.

The COA Ruling

In its April 1, 2015 Decision, the COA denied the petition for review for being filed out of time. It held that under Section 48 of Presidential Decree (PD) No. 1445, and Rule VII, Section 3 of the 2009 Revised Rules of Procedure of the COA, the reglementary period to appeal the decision of an auditor is six (6) months or 180 days from receipt of the decision. The COA found that PhilHealth filed its motion for extension of time to file the petition for review only after the lapse of the said period, hence, the petition was filed out of time. The dispositive portion states:

WHEREFORE, premises considered, the instant petition for review is hereby **DISMISSED** for having been filed out of time. Accordingly, Commission on Audit Corporate Government Sector-6 Decision No. 2014-002 dated March 13, 2014, affirming Notice of Disallowance No. H.O. 12-005 (11) dated July 23, 2012, on the payment of longevity pay under the Magna Carta for Public Health Workers to the officers and employees of Philippine Health Insurance Corporation for the period January to September 2011 in the total amount of P5,575,294.70, is final and executory.^[11]

Undeterred, PhilHealth filed a petition for *certiorari* under Rule 64 of the Rules of Court before the Court.

The Court's Decision

In its July 24, 2018 Decision, the Court denied the petition for *certiorari* filed by PhilHealth. It held that the petition was filed out of time because it was filed beyond the six (6)-month period to appeal an ND. The Court emphasized that PhilHealth received ND No. H.O. 12-005 (11) on July 30, 2012, and that after 179 days, it filed its appeal memorandum before the COA-CGS. Thus, when PhilHealth received the COA-CGS Decision on March 25, 2014, it only had one (1) day to file its petition before the COA, or until March 26, 2014. As the petition was filed on April 30, 2014, it was filed out of time.

Nevertheless, even on the substantive issues, the Court found that the petition lacks merit. It held that to be included within the coverage of R.A. No. 7305 and its Implementing Rules and Regulations (*IRR*), "an employee must be principally tasked to render health or health-related services, such as in hospitals, sanitarium, health infirmaries, health centers, clinical laboratories and facilities and other similar activities which involved health services to the public; medical professionals, allied health professionals, administrative and support personnel in the aforementioned agencies or offices; employees of the health-related establishments, that is, facilities or units engaged in the delivery of health services, although the agencies to which such facilities or units are attached are not primarily involved in health or health-related services. Otherwise stated, an employee performing functions not primarily connected with the delivery of health services to the public is not a public health worker within the contemplation of the law."^[12]

The Court underscored that PhilHealth personnel's functions are not principally related to health service because their service pertains to the effective administration of the National Health Insurance Program, or facilitating the availability of funds of health services to its covered employees. Stated differently, PhilHealth's function is to help its members pay for health care services; unlike that of workers or employees of hospitals, clinics, health centers and units, medical

service institutions, clinical laboratories, treatment and rehabilitation centers, health-related establishments of government corporations, and the specific health service section, division, bureau or unit of a government agency, who are actually engaged in health work services. Thus, as PhilHealth's employees are not considered health workers, they are not entitled to longevity pay under R.A. No. 7305.

Further, the Court ruled that PhilHealth cannot claim good faith to escape liability under ND No. H.O. 12-005 (11) dated July 23, 2012, because it had already attained finality. Thus, all PhilHealth personnel must return the received longevity pay.

Hence, these motions for reconsideration raising the following issues:

I

PHILHEALTH PERSONNEL ARE PUBLIC HEALTH WORKERS AS DEFINED AND DETERMINED UNDER [R.A. No.] 7305 AND ITS IRR.

II

ASSUMING *ARGUENDO* THAT PHILHEALTH PERSONNEL ARE NOT PUBLIC HEALTH WORKERS, THEY SHOULD NOT BE MADE TO REFUND THE AMOUNT DISALLOWED IN AUDIT CONSIDERING THAT THIS HONORABLE COURT FOUND THAT THEY RECEIVED THE BENEFIT IN GOOD FAITH.^[13]

In its Motion for Reconsideration,^[14] PhilHealth argues that the exceptions to the doctrine of finality of judgment must be applied in the interest of substantive justice and for the protection of labor's right to fair and reasonable compensation; that its personnel are health workers because it is attached to the DOH, which has an explicit mandate to be involved in both the provision and regulation of health services; and that, since it is attached to an agency which is mandated to provide, finance or regulate health services, PhilHealth personnel should be considered health workers.

In its Motion for Reconsideration,^[15] the Office of the Government Corporate Counsel (OGCC) reiterates its argument that PhilHealth personnel are covered by the definition of a public health worker under No. 1, Rule III of the Revised IRR of R.A. No. 730 because they are attached to an agency, DOH, which provides financing or regulation of health services; that PhilHealth is not similarly situated with the Social Security System (SSS), Government Service Insurance System (GSIS), and Philippine Charity Sweepstakes Office (PCSO), because these are not attached agencies of the DOH and they do not primarily provide for the financing and regulation of health services; and that PhilHealth's mandate is not limited to simply paying the medical bills of their beneficiaries, rather, they also set the standards, rules, and regulations necessary to ensure quality of care, appropriate utilization of services, fund viability, and member satisfaction; and that PhilHealth personnel received the longevity pay in good faith, and thus, are not liable to return the same.

In its Supplemental Motion for Reconsideration,^[16] PhilHealth highlights that R.A. No. 11223, or the Universal Health Care Act, was signed by the President into law on February 20, 2019. Section 15 thereof states that all PhilHealth personnel shall

be classified as public health workers in accordance with the pertinent provisions under R.A. No. 7305. Thus, PhilHealth concluded that R.A. No. 11223 confirmed its personnel as health workers entitled to longevity pay.

In its Consolidated Comment,^[17] the COA argues that PhilHealth personnel are not public health workers because their functions do not principally render health or health-related services; that the personnel of an office should not be considered as public health officers merely because they are attached to the DOH; otherwise, all personnel of the agencies attached to the DOH, such as the Commission on Population (*POPCOM*), National Nutrition Council (*NNC*), Philippine Institute for Traditional Alternative Health Care (*PITAHC*), and the Philippine National AIDS Council (*PNAC*), even if not directly providing health services, would receive the benefits of a public health worker; and that PhilHealth personnel cannot claim good faith to escape liability because the ND is already final and executory due to the belated filing of PhilHealth's appeal.

The Court's Ruling

The Court finds the motions for reconsideration meritorious.

Relaxation of the procedural rules

As a general rule, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional, and the failure to perfect the appeal renders the judgment of the court final and executory. As such, it has been held that the availability of an appeal is fatal to a special civil action for *certiorari*, for the same is not a substitute for a lost appeal. This is in line with the doctrine of finality of judgment or immutability of judgment under which a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.^[18]

In this case, it was established that PhilHealth filed its petition for review before the COA beyond the reglementary period, hence, the subject ND is deemed final and executory, to wit:

Based on the records, PhilHealth received the ND No. H.O. 12-005 (11) on July 30, 2012, and after 179 days from receipt thereof or on January 25, 2013, PhilHealth filed its appeal memorandum before the COA Corporate Government Sector. The COA Corporate Government Sector upheld the ND No. H.O. 12-005 (11) and the same was received by PhilHealth on March 25, 2014. Hence, by that time, it only had a period of one (1) day, or until March 26, 2014, to file its petition for review before the CACP.

However, on March 31, 2014, after the lapse of five (5) days from March 26, 2014, PhilHealth filed a motion for extension of time of thirty (30) days, from March 30, 2014 to April 30, 2014 to file its petition for review. Thereafter, on April 30, 2014 or after the lapse of 215 days after the Resident Auditor issued the ND, PhilHealth filed its petition before the