RESOLUTION
DIRECTING THE COMMITTEE ON HEALTH TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE APPARENT CONFUSION BROUGHT ABOUT BY THE ISSUANCES OF THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH) ON THE AVAILMENT OF COVID-19 RELATED BENEFIT PACKAGES WHICH MAY SERIOUSLY AFFECT PUBLIC HEALTH SERVICE DELIVERY AND RESPONSE TO THE COVID-19 PANDEMIC

WHEREAS, Article II, Section 15 of the 1987 Constitution states that “the State shall protect and promote the right to health of the people and instill health consciousness among them”;

WHEREAS, Republic Act No. 11223 or the Universal Health Care law states that it shall adopt “an integrated and comprehensive approach to ensure that all Filipinos are health literate, provided with healthy living conditions, and protected from hazards and risks that could affect their health and adopt a “health care model that provides all Filipinos access to a comprehensive set of quality and cost-effective, promotive, preventive, curative, rehabilitative and palliative health services without causing financial hardship, and prioritizes the needs of the population who cannot afford such services”;

WHEREAS, on 11 March 2020, the World Health Organization declared a global pandemic of Coronavirus Disease 2019 (COVID-19);

WHEREAS, Presidential Proclamation No. 929 s. 2020 was issued declaring a State of Calamity throughout the Philippines due to the increasing individuals infected with the virus;

WHEREAS, as early as 10 February 2020, there have been issuances relating to COVID-19 which started from Isolation and Referral package and evolved into COVID-19 In-patient Benefit when the legislature responded to the global pandemic by enacting R.A No. 11469 or the Bayanihan to Heal as One Act, which institutionalized coverage for inpatient care for patients with probable or confirmed cases;

WHEREAS, pursuant to this mandate, PhilHealth issued on 9 April 2020, PhilHealth Circular No. 2020-0009 providing for the benefit packages for inpatient care of probable and confirmed cases developing severe illness or outcomes ranging from P43,997 (mild pneumonia to P786,384 (critical pneumonia);

1 Section 2(a) and (b), R.A. No. 11223
3 PhilHealth Circular No. 2020-0009
WHEREAS, on the same date, PhilHealth also issued PhilHealth Circular No. 2020-0011 which established the guidelines for the interim coverage of probable and confirmed COVID-19 in-patient case management and coverage of health workers as stipulated in R.A No. 11469 or the Bayanihan to Heal as One Act and provided for the eligibility of Filipinos confined for COVID-19 from the period of 1 February 2020 to 14 April 2020 and all health workers beginning 14 April 2020;

WHEREAS, as the COVID-19 situation continuously evolve over time, PhilHealth issuances also had several amendments and supplemental issuances which caused confusion and divergent interpretations not only among its PhilHealth Regional Offices but including health care facilities and law enforcement agencies, alike, as to the appropriate disposition of the claims;

WHEREAS, PhilHealth Circular No. 2020-0009 specifically causes confusion when it accorded COVID-19 benefit package for “probable cases and confirmed cases” which also appeared in several prior issuances, but only indicated the package amount for Confirmed COVID-19;

WHEREAS, due to this vagueness, this has been construed by PhilHealth Regional Offices to mean that the same amount is granted to both “confirmed and probable cases” considering that the grant of coverage to probable cases has been explicit in PhilHealth Circulars prior to PhilHealth Circular 2021-0008;

WHEREAS, the National Bureau of Investigation (NBI) has been filing various cases against officials of the PhilHealth Regional Offices and private hospitals relating to the grant of COVID-19 Benefit Package which includes allegations of up-casing and improper grant of benefit to COVID-19 probable cases⁴;

WHEREAS, pending the resolution of these cases, on 20 May 2021, PhilHealth issued PhilHealth Advisory No. 2021-013 and on 17 June 2021, PhilHealth Circular No. 2021-0008 declaring that only claims for confirmed COVID-19 cases based on a positive COVID-19 swab test results (RT-PCR) shall be covered by the existing Inpatient COVID-19 Package; and cases that were initially managed as COVID-19 but with negative swab (RT-PCR) test result shall be reimbursed with an intermediate package ranging from P18,000 to P38,000 to be applied retroactively for admissions starting 26 November 2020⁵;

WHEREAS, while the PhilHealth Circular No. 2020-0008 explicitly settled the rule that only confirmed COVID-19 patients are entitled to COVID-19 Benefit Package, it did not clarify the appropriate disposition for probable cases prior to 26 November 2020;

WHEREAS, the cases filed by the National Bureau of Investigation (NBI) generated a chilling effect and confusion on all PhilHealth Regional Offices whether or not to approve or deny claims especially those probable claims prior to the retroactive effectivity of PhilHealth Circular No. 2021-0008 or admissions before 26 November 2020 causing suspension of the disposition of claims or outright denial of the probable COVID-19 claims to the damage and prejudice of the PhilHealth members;

WHEREAS, millions of COVID-19 probable claims are in danger of being denied causing huge losses to health care facilities which clinically managed a probable COVID-19 case and eventually causing financial hardship to the COVID-19 patient whose claim will be denied due to fear of prosecution of signatories involved in the approval of the claims;

⁵ PhilHealth Advisory No. 2021-013
WHEREAS, the unresponsiveness of the PhilHealth Head Office as to inquiries on the proper implementation has caused varied interpretation across PhilHealth Regional Offices which is utterly unjust and unfair to other members living in different geographic regions whose claims were unjustly denied due to fear of prosecution by PhilHealth officials and hospitals;

WHEREAS, while PhilHealth Circular No. 2021-0008 has partly clarified the application of COVID-19 Benefit Package to confirmed cases only, there also lies an infirmity in its policy which necessitates further review and scrutiny by PhilHealth;

WHEREAS, the retroactive implementation of this policy is violative of the principle of prospectivity of laws which is also applied in administrative rulings and circulars and even in the application of judicial decisions⁶;

WHEREAS, a retroactive law takes away or impairs vested rights acquired under laws, or creates a new obligation and imposes a new duty, or attaches a new disability, in respect of transactions or considerations already past⁷;

WHEREAS, the entitlement for COVID-19 benefit package of those who were classified as probable COVID-19 prior to the issuance of PhilHealth Circular No. 2021-0008 on 17 June 2021 has already been vested, and the retroactive application to 25 November 2020, or approximately six (6) months prior to the issuance of the circular would impair vested rights;

WHEREAS, in view of the widespread confusion caused PhilHealth’s issuances on the availment of COVID-19 related benefit packages, it is imperative to clarify this matter once and for all in order to strengthen the delivery of public health service and response to the COVID-19 pandemic

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved by the House of Representatives to direct the Committee on Health to conduct an inquiry, in aid of legislation, into the apparent confusion brought about by the issuances of the Philippine Health Insurance Corporation (PhilHealth) on the availment of COVID-19 related benefit packages which may seriously affect public health service delivery and response to the COVID-19 pandemic.

Adopted,

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⁶ Co v. CA, G.R. No. 100776 October 28, 1993
⁷ Tan, Jr. v. CA, G.R. No. 136368, January 16, 2002