



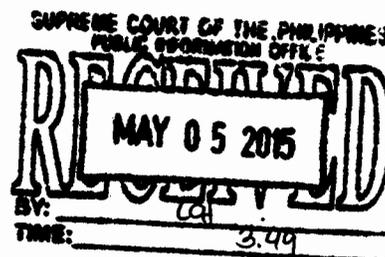
Republic of the Philippines

Supreme Court

Baguio City

EN BANC

NOTICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated APRIL 21, 2015, which reads as follows:

“G.R. No. 200838 (Philippine Institute for Development Studies v. Chairperson Ma. Gracia M. Pulido Tan, Commissioner Juanito G. Espino, Jr., and Commissioner Heidi L. Mendoza, The Commissioners, Commission on Audit). – This is a petition for certiorari under Rule 64 in relation to Rule 65 of the Rules of Civil Procedure seeking to annul the February 16, 2012 Decision 2012-012 of the Commission on Audit (COA), denying the Petition for Review of the Philippine Institute for Development Studies (PIDS) in the case entitled “Petition of Dr. Josef T. Yap, President, Philippine Institute for Development Studies, for review of COA Adjudication and Settlement Board (ASB) Decision No. 2010-046 dated April 27, 2010 sustaining Notice of Disallowance (ND) No. PIDS 2006-01 dated April 25, 2006 on the payment of Annual Membership Fees of 54 PIDS employees to the PhilamCare Health Systems, Inc. (PhilamCare) amounting to ₱324,700.01,”¹ for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

It appears that in 2005, PIDS and PhilamCare executed a health care agreement providing for hospitalization and out-patient and emergency services to 54 PIDS employees. On April 25, 2006, the COA, through its Legal and Adjudication Office-Corporate (LAO-C), Legal Adjudication Sector (LAS), issued ND No. PIDS 2006-01, disallowing the amount of ₱324,700.01 as PhilamCare annual membership fee of its 54 employees because the agreement violated COA Resolution No. 2005-001.² The said resolution declared the procurement by government agencies of another health insurance from private health insurance companies as a disbursement of public funds for a purpose already covered by the Philippine Health Insurance Corporation (PHIC) and must be viewed as a form of additional allowance and compensation.³

¹ Rollo, p. 27.

² Id. at 72.

³ Id. at 27.

Also, in the Notice of Disallowance, the PIDS officers were directed to settle the disallowance in the amount of ₱324,700.01.⁴

PIDS sought the lifting of the ND before the LAO-C, but the latter denied the same.⁵

PIDS then filed a petition for review before the COA Adjudication and Settlement Board (ASB). Finding the PIDS management's act of enrolling with a private health maintenance organization (HMO) to be in clear violation of COA Resolution No. 2005-001, the ASB denied the petition and sustained ND No. PIDS 2006-01.⁶

PIDS filed another petition for review before the COA but it was denied in the assailed COA decision.

Hence, this petition.

In advocacy of its position, PIDS argues that Presidential Decree (P.D.) No. 1597 allows the grant of fringe benefits, in whatever form, provided there is authorization from the President; and that Administrative Order (A.O.) No. 402, being an executive issuance, amounts to an authorization from the President. PIDS further claims that it has complied with the procedural requirements under the said A.O. by first seeking the authority from the PHIC, the Department of Health (DOH), the Department of Budget and Management (DBM), and the Office of the President (OP), before it executed the agreement with PhilamCare in lieu of the authorized health insurance under the said A.O. Lastly, PIDS insists that a health care insurance is not a form of compensation and so it is not proscribed.

The Court's Ruling

The Court finds the petition to be lacking in merit.

The agreement with PhilamCare cannot be allowed because it is deemed an irregular expenditure constituting unnecessary use of public funds. Considering that there is already a current health program provided through the PHIC (A.O. No. 402) which is available to all government employees, the procurement by PIDS of a separate private health insurance is deemed an additional benefit or compensation under the above-cited COA resolution.

Also, the Court cannot agree with PIDS that when the OP approved its procurement of a health care package in lieu of that provided by the PHIC, it also exempted it from the said health program under A.O. No. 402. The

⁴ Id. at 42.

⁵ Id. at 46.

⁶ Id. at 39.

Senior Deputy Executive Secretary had no power or authority to declare an agency to be exempt from an administrative order or a presidential issuance and, thus, had no basis for approving the procurement of a private health care package. Contrary to what he had stated in his letter of approval, the DOH, the PHIC and the DBM never made any recommendation pushing for an independent HMO. Instead, they merely stated that they “interpose no objection” to PIDS’ plan of engaging a private HMO. In fact, in the DBM letter, then Secretary Benjamin E. Diokno stressed that its acquiescence would not be enough to exempt or excuse an agency from the operation of A.O. No. 402. Thus, he inserted the following:

However, since the establishment of a Medical Check-up program for Government Personnel was issued by the President of the Philippines through an Administrative Order, **exemption thereto must likewise be sought from the Office of the President.**⁷ (Emphasis supplied)

The cited approval for exemption from A.O. No. 402 issued by the OP, through then Senior Deputy Executive Secretary Ramon B. Cardenas, still carried this qualification: *subject to the usual accounting and auditing rules and regulations.*⁸

Accordingly, PIDS’ agreement with PhilamCare is not an allowed expenditure, constituting unnecessary use of public funds. Considering that there is already an existing health program for government employees, the subsequent health care agreement is likened to an additional benefit or compensation.

Nevertheless, the Court notes that the incentive benefits were disbursed in the honest belief that the agreement was with the conformity of the DOH, the PHIC, the DBM, and the OP. PIDS officials had no clear knowledge that such payment was without legal basis. Being in good faith, the responsible officers of the petitioner need not refund the payments to PhilamCare.⁹

WHEREFORE, the Court **AFFIRMS** the assailed February 16, 2012 Decision of the COA, with the **MODIFICATION** that the officers and employees of the PIDS are excused from returning the disallowed amount of ₱324,700.01.” Jardeleza, J., no part. (adv31)

Very truly yours,


ENRIQUETA E. VIDAL
Clerk of Court *my*

⁷ Id. at 75.

⁸ Id. at 10.

⁹ *Technical Education and Skills Development Authority (TESDA) v. The Commission on Audit (COA)*, G.R. No. 196418, February 17, 2015.

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A handwritten signature in black ink, appearing to be the initials 'G.R.' followed by a stylized flourish.