

J. Y. Interpretation No.310 (December 11, 1992) *

ISSUE: Is the interpretative letter issued by the Ministry of Interior, which states that the labor insured who, upon his retirement, had received old-age benefits, shall not be entitled to make further claim for injury and sickness benefits, constitutional?

RELEVANT LAWS:

Articles 20, 33 and 58, Paragraph 1 of the Labor Insurance Act (勞工保險條例第二十條、三十三條、第五十八條第一項) .

KEYWORDS:

labor insurance (勞工保險) ; injury benefits (普通傷害補助費) ; illness benefits (普通疾病補助費) ; old-age benefits (老年給付) .**

HOLDING: The injury and illness benefits stipulated in the Labor Insurance Act are subsidies payable to workers who cannot work and subsequently are unable to receive their original wages due to injury and illness, while the old-age retirement benefits are for those workers retiring from their jobs who con-

解釋文：勞工保險條例規定之傷病給付，乃對勞工因傷病不能工作，致未能取得原有薪資所為之補助，與老年給付係對勞工因退職未能獲取薪資所為之給付，兩者性質相同，其請領老年給付者，自不應重複請領傷病給付。內政部中華民國六十九年六月十三日臺內社字第一七七三一號函示：「被保險人

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sequently will no longer receive their wages. Both types of benefits are of the same nature and thus those workers applying for old-age benefits are disqualified from concurrent application for injury and illness benefits. The interpretative letter issued by the Ministry of Interior titled Tai-Ney-Sheh-Tzeyh No. 17731 on June 13, 1980, states that “those workers retiring from their jobs and withdrawing from the Labor Insurance Program in accordance with related regulations and applying for old-age benefits are not allowed to apply for injury and illness benefits as stipulated in Article 20 of the Labor Insurance Act.” The letter is in line with the above meaning and reasoning, and therefore, cannot be deemed as contrary to the Constitution.

REASONING: In accordance with Article 33 of the Labor Insurance Act which stipulates that “in case an insured person is unable to work and cannot receive his regular wages due to an ordinary injury and illness for which he (or she) is hospitalized and under medical treatment, he (or she) shall receive ordi-

退職，依規定退保，並請領老年給付者，自不得再依勞工保險條例第二十條規定，請領傷病給付」，與上述意旨相符，尚不牴觸憲法。

解釋理由書：依勞工保險條例第三十三條規定：「被保險人遭遇普通傷害或普通疾病住院診療不能工作，以致未能取得薪資，正在治療中者，自不能工作之第四日起，發給普通傷害補助費及普通疾病補助費」，顯見傷病給付，乃對勞工因傷病不能工作，致未能取得原有薪資所為之補助。而同條例第

nary injury or illness benefits upon the fourth day on which he (or she) is unable to work.” It is clear that injury or illness benefits are subsidies for those workers who are unable to work and subsequently unable to receive their regular wages. Besides, Article 58, Paragraph 1, of the same Act also stipulates that once a certain level of seniority has been reached by a person who enrolls in the Labor Insurance Program, the insured person is entitled to retire from his (or her) job. The old-age benefits, which an insured person is qualified to apply for, are also a payment given to a worker who is retiring from his (or her) job. Both types of benefits are of the same nature, and those workers who are applying for old-age benefits are disqualified from concurrent application for injury or illness benefits. Article 20, Paragraph 1, first sentence, of the Labor Insurance Act, stipulates that “an insured person is entitled to enjoy the rights of insurance benefits within one year after the validity of his (or her) insurance has ended, if the incident of the injury or illness occurred during the period his (or her) insurance coverage was valid, and he (or she) has

五十八條第一項各款規定，被保險人參加保險之年資合計達一定年限，而退職者，得請領之老年給付，亦係對勞工因退職未能獲取薪資所為之給付，兩者性質相同，其請領老年給付者，自不能重複請領傷病給付。至勞工保險條例第二十條第一項前段規定「被保險人在保險有效期間所發生之傷病事故，於保險效力停止後，必須連續請領傷病給付或住院診療給付者，一年內，仍可享有該項保險給付之權利」，其中所稱保險效力之停止，並非以退職為唯一原因，如被保險人退職，且已請領老年給付者，自應依前開說明辦理。內政部中華民國六十九年六月十三日臺內社字第一七七三一號函示：「被保險人退職，依規定退保，並請領老年給付者，自不得再依勞工保險條例第二十條規定，請領傷病給付」，與上述意旨相符，尚不牴觸憲法。

continuously applied for injury or illness benefits or received hospitalization for medical treatment.” The end of the validity of insurance referred to above does not specify leaving one’s job as an exclusive cause. Therefore, if an insured person is retiring from his (or her) job and has applied for old-age benefits, he (or she) is obliged to make the adjustments based on the abovementioned statements. Accordingly, the interpretative letter issued by the Ministry of Interior on June 13, 1980, titled Tai-Ney-Sheh-Tzyh No. 17731, states that “those workers retiring from their jobs and withdrawing from the Labor Insurance Program in accordance with related regulations and applying for old-age benefits are not allowed to apply for injury and illness benefits as stipulated in Article 20 of the Labor Insurance Act.” The letter is in line with the above meaning and reasoning and, therefore, is not contrary to the Constitution.