

## J. Y. Interpretation No.316 ( May 7, 1993 ) \*

**ISSUE:** Does the interpretative letter issued by the Ministry of Civil Service conflict with the Constitution, which indicates that the insured who became disabled by accident during the covered period and now is comatose is not entitled to claim disability benefits if his physical condition requires continuous medical care?

**RELEVANT LAWS:**

Articles 3, 13, Paragraph 5, Subparagraph 4 and 14 of the Government Employee Insurance Act (公務人員保險法第三條、第十三條第五項第四款及第十四條); Articles 51, Paragraph 2 and 58, Paragraph 1 of the Enforcement Rules of the Government Employee Insurance Act (公務人員保險法施行細則第五十一條第二項及第五十八條第一項); Article 155 of the Constitution (憲法第一百五十五條) .

**KEYWORDS:**

insured event (保險事故), social insurance (社會保險) .

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**HOLDING:** The illness, injury and disability as referred to in Article 3 of the Public Functionaries Insurance Act

**解釋文：**公務人員保險法第三條規定之疾病、傷害與殘廢，乃屬不同之保險事故。被保險人在保險有效期間

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belong to a different subcategory of insurance peril. In the case where the insured becomes disabled by accident during the covered period, the insured shall be entitled to disability benefits in accordance with Article 14 of the same Act. It is another matter regarding the conditions under which the insurer shall bear medical costs for the insured. If there is no error in the permission to terminate medical treatment for pathological changes of the cerebrum of a comatose person as mentioned in a letter dated October 6, 1990, from the Ministry of Civil Service, Ref. No. 79-Tai-Hwa-Teh-Yi-0470777, then such case qualifies for disability benefits. However, citing a resulting complication which requires further treatment as reason for denying disability benefits confuses disability benefits with medical indemnity for illness and injury, and adds more terms and conditions than prescribed by the laws. The aforesaid contradicts the intention of the Constitution with regard to implementing social insurance to take care of the disabled and to guarantee the rights of the citizens and, therefore, the said letter shall no longer apply. Medical

發生殘廢事故時，自應依同法第十四條予以殘廢給付。其於領取殘廢給付後，承保機關在何種情形下仍應負擔其醫療費用，係另一問題。銓敘部七十九年十月六日七九臺華特一字第○四七○七七號函謂「植物人」之大腦病變可終止治療，如屬無誤，則已合於殘廢給付之條件，乃又以其引起之併發症無法終止治療為由而不予核給，將殘廢給付與疾病、傷害給付混為同一保險事故，增加法律所無之條件，與憲法實施社會保險照顧殘廢者生活，以保障人民權利之意旨尚有不符，應不再援用。惟「植物人」之大腦病變縱可終止治療，其所需治療以外之專門性照護，較殘廢給付更為重要，現行公務人員保險就專業照護欠缺規定，應迅予檢討改進。又大腦病變之「植物人」於領取殘廢給付後，如因大腦病變以外之其他傷病而有治療之必要者，既非屬同一傷病之範圍，承保機關仍應負擔醫療費用，乃屬當然，併予說明。

treatment for pathological changes of the cerebrum of a comatose person may be terminated, but special care for the said individual weighs more heavily than disability benefits. The current lack of regulations, in insurance for government employees, regarding professional medical care shall be promptly examined and rectified. Furthermore, after obtainment of disability benefits, if a comatose person with pathological changes of the cerebrum needs medical treatment for injury or illness other than pathological changes of the cerebrum, the medical costs incurred shall, justifiably, still be borne by the insurer because such medical condition is under a different covered subcategory.

**REASONING:** Insurance for public functionaries is one type of social insurance. As stated in Article 155 of the Constitution, “The State, in order to promote social welfare, shall establish a social insurance system. To the aged and the infirm who are unable to earn a living, the State shall give appropriate assistance and relief.” The approval of claims for disability benefits involves the guaranty of con-

**解釋理由書：**公務人員保險為社會保險之一種。國家為謀社會福利，應實施社會保險制度，人民之老弱殘廢，無力生活，及受非常災患者，國家應予以適當之扶助與救濟，為憲法第一百五十五條所明定。而得否請領殘廢保險給付，涉及憲法上人民權利之保障。公務人員保險法第三條就保險事故之範圍，分為生育、疾病、傷害、殘廢、養老、死亡及眷屬喪葬七項，其中疾病、

stitutional rights of the citizen. In Article 3 of the Public Functionaries Insurance Act, there are seven subcategories of insurance perils: childbirth, illness, injury, disability, annuity, death, and funeral arrangements for family members; among them, illness, injury, and disability, respectively, belong to a different subcategory. According to Article 58, Paragraph 1, in the Enforcement Rules of the said Act, if the insured is disabled due to an insurance peril and there is no possibility for rehabilitation after termination of medical treatment, and thus (diagnostically) he/she is confirmed as permanently disabled, then the insured shall be paid with cash indemnity in accordance with disability criteria as prescribed in Article 14 of the same Act. The aforesaid has no connection with Article 3, Paragraph 5, Subparagraph 4, of the same Act, which stipulates that after payment of disability benefits for a disability caused by injury or illness, the insured shall not claim medical indemnity for the same injury or illness; that is, the insurer shall not be responsible for the insured regarding medical costs incurred for the same injury or

傷害與殘廢，乃不同之保險事故。依同法施行細則第五十八條第一項規定，被保險人發生保險事故，致成殘廢，經醫治終止，無法矯正，確屬成為永久殘廢者，即應依同法第十四條規定，按殘廢之標準予以現金給付。同法第十三條第五項第四款，雖限制因傷病而致殘廢經領取殘廢給付後，不得以同一傷病再申請診療，亦即承保機關就同一傷病不再負擔其醫療費用。惟此乃另一疾病或傷害保險事故之保險給付問題，與已發生殘廢之保險事故應予以殘廢之給付無關，且上述法律規定之「同一傷病」，同法施行細則第五十一條第二項則採列舉規定，其內容為(一)傷病部位與原殘廢部位相同者(二)傷病名稱與原殘廢之傷病名稱相同者(三)傷病情況尚未超過原殘廢等級編號範圍者。並未將非同一傷病之各種感染及併發症，亦併列為「同一傷病」之範圍，且各種疾病與傷害，如在非殘廢人亦可能發生者，更無從擴張解釋為「同一事故」。銓敘部七十九年十月六日七九臺華特一字第○四七○七七七號函謂「植物人」之大腦病變可終止治療，如屬無誤，則已合於殘廢給付之條件，乃又以其引起之併發症無法終止治療為由而不予核給，將殘廢給付與疾病、傷害給付混為同一保險事

illness. However, the aforesaid is indemnity under a different subcategory of covered injury or illness, and has no connection with statutory disability benefits for the insurance peril that already happened. Furthermore, the content of “same injury or illness” as referred to in the aforesaid Act is itemized in Article 51, Paragraph 2, in the Enforcement Rules of the same Act as: (1) the part suffering injury or illness is the same as the original disabled part; (2) the medical term of the injury or illness is the same as that of the original injury or illness which caused the disability; and (3) severity of the injury or illness has not yet exceeded the covered scope regarding the original disability. The aforesaid does not put infections and complications not relating to the same injury or illness in the covered scope for the “same injury or illness.” Besides, if the various infections and complications can also affect able-bodied people, then there is no justification for expanding interpretation for such as the “same injury or illness.” If there is no error in the permission to terminate medical treatment for pathological changes of the cerebrum of a comatose

故，增加法律所無之條件，與憲法實施社會保險照顧殘廢者生活，以保障人民權利之意旨尚有不符，應不再援用。惟「植物人」之大腦病變縱可終止治療，其所需治療以外之專門性照護，較殘廢給付更為重要，現行公務人員保險就專業照護欠缺規定，應迅予檢討改進。又大腦病變之「植物人」於領取殘廢給付後，如因大腦病變以外之其他傷病而有治療之必要者，既非屬同一傷病之範圍，承保機關仍應負擔醫療費用，乃屬當然，併予說明。

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cal changes of the cerebrum, the medical costs incurred shall, justifiably, still be borne by the insurer because such medical condition belongs to a different subcategory of injury and illness.