

J. Y. Interpretation No.389 (November 10, 1995) *

ISSUE: Is it unconstitutional to exclude hereditary chronic disease or a deformity that occurred/existed before a worker enrolled in the labor insurance program from labor insurance coverage?

RELEVANT LAWS:

Articles 19, Paragraph 1, 40, 41, 42, 43, 44 and 51, Paragraphs 1 and 2 of the Labor Insurance Act (勞工保險條例第十九條第一項、第四十條、第四十一條、第四十二條、第四十三條、第四十四條、第五十一條第一項、第二項) .

KEYWORDS:

labor insurance (勞工保險), medical care benefits (醫療給付), hereditary chronic disease (先天性痼疾), cosmetic surgery (美容外科) . **

HOLDING: According to Article 44 of the Labor Insurance Act, cosmetic surgery is excluded from medical indemnity. In addition, Article 19, Paragraph 1, of the same Act stipulates that in the case where an insurance peril happens after an insurance policy takes effect and before such policy is terminated, the in-

解釋文：勞工保險條例第四十四條規定，醫療給付不包括美容外科。又同條例第十九條第一項規定，被保險人或其受益人，於保險效力開始後停止前發生保險事故者，始得依該條例規定，請領保險給付。勞工保險診療費用支付標準表係依據勞工保險條例第五十一條第二項授權訂定，其第九部第四節

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sured or his/her beneficiary shall be entitled to claim insurance benefit payments. The Standard Forms for Payment of Labor Insurance Medical Coverage are made under authorization of Article 51, Paragraph 2, of the Labor Insurance Act. In connection with corrective surgery for the jaw, Part 9, Section 4, Paragraph 2, of the Standard Forms specifies, in accordance with Article 51, Paragraph 2, of the same Act, that a claim of medical care benefits is “restricted to special cases, with approved application, of external injuries or painful jaw joints” on the grounds that such cases satisfy the prerequisite that accidents may happen after an insurance policy takes effect and before such policy is terminated, and that the subject medical treatment is not cosmetic surgery. Hereditary chronic disease or a deformity that occurred/existed before a worker enrolled in the labor insurance program is not covered; hence, there will be no medical care benefits. This is within the authorized scope of the said Act and does not contradict the Constitution.

第二項關於顎骨矯正手術，載明「限外傷或顳顎關節疼痛者專案報准後施行」，乃因有此情形，始同時符合保險效力開始後停止前所發生之保險事故，以及非屬美容外科之要件。若勞工於加入勞工保險前發生之先天性痼疾或畸形，即不在勞工保險承保範圍。其不支付診療費用，並未逾越該條例授權範圍，與憲法尚無牴觸。

REASONING: According to

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Article 19, Paragraph 1, of the Labor Insurance Act, in the event where an insurance peril happens after an insurance policy takes effect and before such policy is terminated, the insured or his/her beneficiary shall be entitled to claim insurance benefit payments. It is therefore stipulated that claim of insurance benefit payments is restricted to insurance perils which happen after an insurance policy takes effect and before such policy is terminated. In addition, since labor insurance belongs to social insurance and for the purpose of avoiding waste of medical resources, Article 44 of the Labor Insurance Act stipulates: "Medical care benefits shall not be paid for legally declared epidemics, leprosy, narcotic addictions, child delivery, miscarriage, plastic surgery, false teeth, prosthetic eyes, eyeglasses or accessories, patient transportation, special nurses, blood transfusion, registration fees, charges for documents, treatments for which facilities are not available at the hospital or clinic, or other items which are not referred to in Articles 41 or 43, except in the case of blood transfusion in an emergency treatment of an insured person

十九條第一項規定：「被保險人或其受益人，於保險效力開始後停止前發生保險事故者，得依本條例規定，請領保險給付」，明示保險給付之請領，以保險效力開始後停止前發生保險事故者為限。又勞工保險係屬社會保險，為避免浪費社會醫療資源，勞工保險條例第四十四條又規定：「醫療給付不包括法定傳染病、癩瘋病、麻醉藥品嗜好症、接生、流產、美容外科、義齒、義眼、眼鏡或其他附屬品之裝置，病人運輸、特別護士看護、輸血、掛號費、證件費、醫療院、所無設備之診療及第四十一條、第四十三條未包括之項目。但被保險人因緊急傷病，經保險人自設或特約醫療院、所診斷必須輸血者，不在此限。」顯見「美容外科」，不屬勞工保險條例第四十條所定「被保險人罹患傷病」之範圍，不在醫療給付之列。但法律規定之內容不能鉅細靡遺，立法機關自得就有關醫療上之技術性、細節性等專業事項，授權主管機關發布命令為補充規定，同條例第五十一條第一項遂定有「應依照勞工保險診療費用支付標準表及用藥種類與價格表支付之」之明文。而上述勞工保險診療費用支付標準表及用藥種類與價格表，依同條第二項，授權由中央主管機關會同中央衛生

deemed by the hospital operated or specially contracted by the insurer to be strictly necessary.” Obviously, cosmetic surgery is outside the scope of “injury or illness suffered by the insured” as provided for in Article 40 of the Labor Insurance Act, and is not eligible for medical care benefits. Laws and regulations, however, cannot stipulate all the details; therefore, the legislative branch may authorize the competent authority to promulgate supplementary provisions for technical matters and details regarding medical treatment. Hence the stipulation in Article 51, Paragraph 1, in the same Act: “Payment shall comply with the Standard Forms for Payment of Labor Insurance Medical Coverage, and the Standard Forms for Acceptable Medicines List and Their Prices.” The central competent authority is authorized in accordance with Paragraph 2 of the same Article to prescribe the aforesaid Standard Forms for Payment of Labor Insurance Medical Coverage, and the Standard Forms for Acceptable Medicines List and Their Prices upon consultation with the central competent authority in charge of health

主管機關定之。該標準表第九部第四節第二項關於顎骨矯正手術，載明「限外傷或顳顎關節疼痛者專案報准後施行」之規定，意指有上述情形，其顎骨矯正手術即符合保險效力開始後停止前所發生之保險事故，以及非屬美容外科之要件。若勞工於加入勞工保險前發生之先天性痼疾或畸形，即不在勞工保險承保範圍。其不支付診療費用，並未逾越該條例授權範圍，與憲法尚無牴觸。

matters. In connection with corrective surgery for the jaw, Part 9, Section 4, Paragraph 2, of the said Standard Forms specifies, in accordance with Article 51, Paragraph 2, of the same Act, that claim of medical care benefits is “restricted to special cases, with approved application, of external injuries or painful jaw joints” since such cases satisfy the prerequisite that an accident may happen after an insurance policy takes effect and before its termination, and that the subject medical treatment is not cosmetic surgery. Hereditary chronic disease or a deformity that occurred/existed before a worker enrolled in the labor insurance program is not covered; hence, there will be no medical care benefits. This is within the authorized scope of the said Act and does not conflict with the Constitution.

Justice Jyun-Hsiung Su filed dissenting opinion, in which Justice Tong-Schung Tai joined.

本號解釋蘇大法官俊雄、戴大法官東雄共同提出不同意見書。