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**J.Y. Interpretation No. 472 (January 29, 1999)\***

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**Compulsory National Health Insurance Case**

**Issue**

Are compulsory national health insurance and the imposition of an overdue charge both unconstitutional?

**Holding**

[1] According to Article 155 of the Constitution: "The State, in order to promote social welfare, shall establish a social insurance system." Article 157 of the Constitution also specifies: "The State, in order to improve national health, shall establish extensive services for sanitation and health protection, and a system of public medical service." Furthermore, Article 10, Paragraph 5, of the Additional Articles of the Constitution provides: "The State shall promote national health insurance..." The National Health Insurance Act, promulgated on August 9, 1994, and implemented on March 1, 1995, is for the realization of the aforesaid provisions of the Constitution. Provisions in Article 11-1, Paragraph 1, Article 69-1, Paragraph 1, and Article 87 of the Act regarding compulsory subscription of insurance and premium payment are based on considerations of mutual social support, risk-sharing and the public interest, and therefore conform to the constitutional purpose of promoting national health insurance. The overdue charge prescribed in Article 30 of the Act is necessary to oblige a group insurance applicant or the insured to make a premium payment. The aforesaid Article of the Act does not contradict Article 23 of the Constitution. However, for those who cannot afford to pay the premium, the State shall give appropriate assistance and

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\* Translation and Note by Ching-Yuan HUANG

relief and shall not refuse to pay benefits, in order to fulfill the constitutional purposes of promoting national health insurance and protecting senior citizens, the infirm and the financially disadvantaged.

[2] The inclusion of those already covered, in accordance with law, by insurance for government employees, labor insurance, and insurance for farmers in the compulsory national health insurance system is necessary to promote the public interest, and therefore it is hard to argue that such decision contradicts the principle of trust and protection. Nonetheless, the authorities concerned shall, based on the provisions of Article 85 of the Act regarding presenting improvement proposals within a prescribed time period and this J.Y. Interpretation No. 472, conduct at an appropriate time a full-scale evaluation and implement improvement measures in aspects of insurance operations (including diversification of the insurers), categories of the insured, the insured amount, premium rates, payment of medical insurance, austerity measures and the appropriateness of temporary suspension of insurance benefits.

## **Reasoning**

[1] The Legislative Yuan is responsible for the promulgation and amendment of laws. According to the Constitution, the Executive Yuan may only propose legislation bills to the Legislative Yuan. Article 89 of the National Health Insurance Act stipulates: "Two years after the implementation of the Act, the Executive Yuan shall amend the Act within half a year; otherwise, the Act shall cease to be effective upon such expiration," meaning that the Executive Yuan shall evaluate problems facing implementation of the Act and submit improvement proposals to the Legislative Yuan. Accordingly, the Executive Yuan submitted to the Legislative Yuan on July 23, 1997, a Draft Amendment Bill to the National Health Insurance Act. The legal effect of the Act is therefore beyond doubt.

[2] "The State, in order to promote social welfare, shall establish a social

insurance system"; "The State, in order to improve national health, shall establish extensive services for sanitation and health protection, and a system of public medical service"; and "The State shall promote national health insurance" are all basic national policies, according, respectively, to Articles 155 and 157 of the Constitution and Article 10, Paragraph 5, of the Additional Articles of the Constitution. The Legislative Yuan may therefore promulgate relevant laws and regulations conforming to the aforesaid constitutional purposes. The design of a national insurance system belongs to the discretionary power of the legislative branch. The National Health Insurance Act, promulgated on August 9, 1994, and implemented on March 1, 1995, is for the realization of the aforesaid provisions of the Constitution. Provisions in Article 11-1, Paragraph 1, Article 69-1, Paragraph 1, and Article 87 of the Act regarding compulsory subscription of insurance are necessary to enable the State to include the whole population in health insurance coverage, so as to perform the responsibility to provide health care for the general public, and therefore conform to the constitutional purpose of promoting national health insurance. Provisions in Article 30 of the Act regarding overdue charges are for the purpose of obliging a group insurance applicant or the insured to submit monetary payment in accordance with public laws. This and the compulsory subscription of insurance are reasonable measures to realize the system of national health insurance. Hence, there is no overstepping of Article 23 of the Constitution. However, for those who cannot afford to pay premiums, the State shall give appropriate assistance and relief and shall not refuse to pay benefits, in order to fulfill the constitutional purposes of promoting national health insurance and protecting senior citizens, the infirm and the financially disadvantaged.

[3] Those already covered, respectively, in accordance with the Public Functionaries Insurance Act, the Labor Insurance Act and the Farmers Health Insurance Act, by the insurance for government employees, labor insurance and

the insurance for farmers, must still join the National Health Insurance program. This is for the purposes of integrating medical insurance payment under the respective insurance plans for government employees, laborers and farmers, and establishing a single and fair health insurance system, so as to facilitate reasonable distribution of medical resources and provide social insurance. The terms and conditions of this compulsory social insurance are prescribed by the laws for national implementation, and therefore this differs from an insurance policy selectively purchased by individuals. There is no resulting question of contradiction with trust and protection of interests where the legislative body, in consideration of the needs of social development, makes or amends the laws and changes various social insurance regulations so as to establish the social security system in conformance with constitutional purposes. Nonetheless, the authorities concerned shall, based on the provisions of Article 85 of the Act regarding presenting an improvement proposal within a prescribed time period and this J.Y. Interpretation No. 472, conduct at an appropriate time a full-scale evaluation and implement improvement measures in aspects of insurance operations (including diversification of the insurers), categories of the insured, the insured amount, premium rates, payment of medical insurance, austerity measures and the appropriateness of the temporary suspension of insurance benefits. With respect to the provisions regarding medical insurance as set forth in the Farmers Health Insurance Act, they have become inappropriate as a result of the implementation of the National Health Insurance Act, because the said provisions are temporary measures based on the letter issued by the Executive Yuan. Therefore, the authorities concerned shall pay special attention in this regard.

### **Background Note** by the Translator

This J.Y. Interpretation No. 472 arose from the petitions by (i) HUANG, an individual against whose company a final judgment was rendered, (ii) the

Legislative Yuan, and (iii) individual legislators.

Petitioner HUANG was the responsible person of Company X. After the National Health Insurance Act (the “NHI Act”) entered into force on March 1, 1995, the National Health Insurance Administration (“NHI Administration”) requested Company X to pay NHI premiums, and Company X declined. The NHI Administration then brought an action against Company X to demand payment of the NHI premiums and overdue charges based on the NHI Act. A judgment was rendered against Company X at the first instance, and the appeal of Company X was denied, which decision was final. Subsequently, petitioner Huang brought this case before the Constitutional Court to challenge the constitutionality of the NHI Act provisions that obliged nationals to participate in the NHI program.

The Legislative Yuan and individual legislators also filed petitions for J.Y. interpretation on grounds of their doubts as to the constitutionality of the NHI Act that emerged as they exercised their functions. The Legislative Yuan questioned whether it was constitutional for the NHI Act to require those who were already covered by the insurance for government employees, labor insurance and the insurance for farmers to join the NHI program. Individual legislators questioned whether it was constitutional to mandatorily include all nationals in the NHI program and require them to pay NHI premiums.

J.Y. Interpretation No. 472 is one of the leading cases in NHI-related disputes and appears in the context of many later related decisions, including J.Y. Interpretation No. 550. In J.Y. Interpretation No. 550, the Constitutional Court was asked to decide whether it was constitutional for the NHI Act to require local governments to pay a certain portion of the government-borne premium. In support of the majority conclusion that both the central and local governments are responsible for the government-borne premium, the concurring opinion of Tung-Hsiung TAI, then-Justice of the Constitutional Court, stressing the social purposes of NHI, cites the ruling of J.Y. Interpretation No. 472 that "the State shall give

appropriate assistance and relief and shall not refuse to pay benefits, in order to fulfill the constitutional purposes of promoting national health insurance, protecting senior citizens, the infirm and the financially disadvantaged."