

CLIENT ADVISORY BULLETIN NO. 2020-001D (Hazard Pay for Health Workers)

April 28, 2020

Gentlemen and Mesdames:

This simple Question and Answer was compiled for the benefit of our health care workers who are currently at the forefront of the battle against COVID-19. These are unprecedented and uncertain times that we live in, especially so for the health care workers who put their lives at risk every day. We hope that through this Q&A, we are able to address some of the pressing legal concerns of our health care workers.

1. Q: ***What is hazard pay?***
A: Hazard pay is a form of compensation given when the nature of work is hazardous or one that involves risk or peril. Currently, the Labor Code does not provide for hazard pay. With respect to **public** health workers, Rule II, No. 18 of the Revised Implementing Rules and Regulations (“IRR”) of the Magna Carta of Public Healthworkers defines **hazard** as “the risks to the health and safety of public health workers”.

2. Q: ***Are all health care workers (“HCW”) entitled to hazard pay?***
A: It depends. With respect to HCW in the **public sector**, hazard pay is clearly provided for in Republic Act No. 7305 or the Magna Carta of Public Health Workers. As for HCW in the **private sector**, hazard pay is subject to the contractual agreement between them and their employer.

3. Q: ***Who are considered Public Health Workers (“PHW”)?***
A: Under the Magna Carta of Public Health Workers and its Implementing Rules and Regulations (IRR)¹, PHWs refer to: (i) all persons who are engaged in health and health-related work, and (ii) all persons employed in hospitals and other health-related establishments owned and operated by the Government or its political subdivisions, including administrative and support personnel employed, regardless of their employment status².

¹ See No. 1 Rule III of the IRR.

² Section 3, Magna Carta of Public Health Workers.

4. Q: *Is hazard pay only limited to PHWs working in public hospitals?*
A: No, subject to the conditions set forth in the IRR³, PHWs in hospitals and other health-related establishments located in difficult areas, strife-torn or embattled areas, distressed or isolated stations, prisons camps, mental hospitals, radiation-exposed clinics, laboratories or disease-infested areas, or in areas declared under state of calamity or emergency, which expose them to great danger, contagion, radiation, volcanic activity/eruption occupational risks or perils to life, as determined by the Secretary of Health or the Head of the unit with the approval of the Secretary of Health, shall be entitled to hazard pay.⁴
5. Q: *Aside from hazard pay, what other benefits are PHW entitled to, under the Bayanihan Act⁵?*
A: PHWs, under the law and aside from hazard pay, are entitled to a **one-time** COVID-19 Special Risk Allowance (“SRA”) of twenty-five percent (25%) of his/her basic salary/pay⁶, the guidelines for which are outlined in Administrative Order No. 28, series of 2020. In addition, the law likewise directs the Philippine Health Insurance Corporation (“PhilHealth”) to shoulder the medical expenses of **both** private and public health care workers who contract COVID-19 or sustain any work-related disease or injury during this period of emergency⁸.
- Lastly, **both** private and public health workers shall be entitled to **One Hundred Thousand Pesos (₱100,000.00)**, if they contract COVID-19 while in the line of duty, and **One Million Pesos (₱1,000,000.00)**, if they die due to COVID-19.
6. Q: *Can an HCW refuse hospital duty or assignment to a COVID-19 ward?*
A: Generally, no. An order requiring health care workers (HCW), whether public or private, to report to work is a lawful order, the disregard of which, may amount to insubordination, willful disobedience and/or gross and habitual neglect of duty, resulting in the imposition of administrative sanctions.

³ Section 7 and sub-sections of Rule XV of the IRR

⁴ Section 21, *Id.*

⁵ Republic Act No. 11469.

⁶ Section 1 of Administrative Circular No. 28, s. 2020.

⁸ Section 4(e) of the Bayanihan Act.

However, it is important to emphasize that the Employer is duty-bound to implement occupational safety and health programs and to provide for personal protective equipment (“PPE”), in compliance with Republic Act No. 11058 or the Occupational Safety and Health Standards Act and Sections 10 and 11 of DOLE Department Order No. 182, series of 2017.

Keep safe.

Thank you very much.


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