

# The National Health Insurance Law and the Civil Service Code

## A Review of Specific Provisions Applicable to Women



The National Health Insurance Law and the Civil Service Code:  
**A Review of Specific Provisions  
Applicable to Women**

By Ermi Amor T. Figueroa-Yap

INTRODUCTION

**V**iolence against women is not merely physical abuse but also institutional violence perpetrated by the state through neglect of basic services or legal violence found in anti-women legislation.

This paper attempts to identify provisions in the National Health Insurance (NHI) Law (Republic Act 7875) which neglect, disregard or outrightly discriminate against women's needs and rights. It is relevant to check if the newly-passed NHI law has provisions beneficial to women, or has at least deleted those discriminatory to them.

But in reviewing the NHI Law and its Implementing Rules and Regulations (IRR), the issue comes to mind whether civil service provisions for women in public service institutions are consistent with the Philippine Plan for Gender-Responsive Development (PPGRD). Thus, this paper will also review civil service laws -

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in particular, the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws - and to some extent the Labor Code, again to identify provisions relevant to women's rights for advocacy and policy reforms.

The goal of this review is to introduce reforms in the Civil Service guidelines and in the Labor Code so as to enhance the status of women workers and make sure that violence is not perpetrated against them.

Recommendations will guide advocacy on gender awareness and policy reforms addressing women's concerns in the workplace, in the availment of health services, and in accessing employment opportunities.

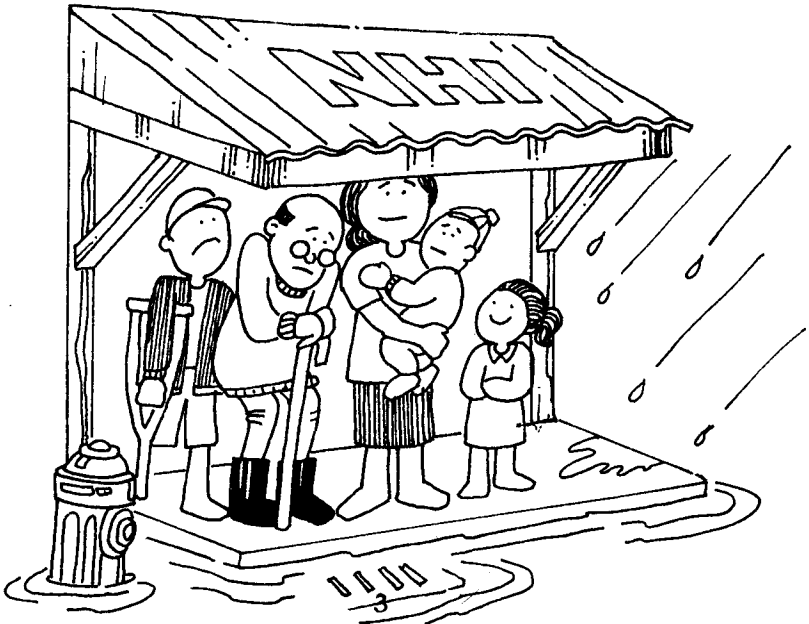
## THE NATIONAL HEALTH INSURANCE (NHI) LAW

### What is the National Health Insurance Law?

The NHI Law (Republic Act No. 7875) establishes the Philippine Health Insurance Corporation (PhilHealth) and also aims to improve the implementation and coverage of the old Medicare program by including the self-employed and the poor who cannot otherwise avail of health insurance.

### What is the policy of the State on health insurance?

Article I, Section 2 of the NHI Law states, “.....the State shall adopt an ***integrated and comprehensive approach to health development*** which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. Priority for the needs of the underprivileged, sick, elderly, disabled, **women**, and children shall be recognized. Likewise, it shall be the policy of the State to provide free medical care to paupers.”



## **In terms of marital status, is a woman better off in the NHI Law than Medicare?**

Under the old Medicare program, one could avail of the maternity benefits if legally married. The new NHI is silent on this, most likely because the PhilHealth now covers both the public and private sectors. In the past, only those covered by the Social Security System could avail of the maternity benefits regardless of marital status.

But even if the NHI Law is silent on the issue of marital status of female members, it does state in Section 4.f under Dependent that “The legal dependents of a member are: (1) the **legitimate** spouse who is not a member;...” As long as she is complete in her contributions, an unmarried female **member** can avail of benefits.

## **What are the exclusions to the services offered by the NHI Law?**

Under Article III, Section 11 of the NHI Law, expenses for the following services are excluded unless they are recommended for approval by the PhilHealth Board and subjected to actuarial studies:

- a. non-prescription drugs and devices;
- b. ***outpatient psychotherapy and counselling for mental disorders;***
- c. drug and alcohol abuse or dependency treatment
- d. ***cosmetic surgery;***
- e. ***home and rehabilitation services;***
- f. optometric services;
- g. ***normal obstetrical delivery;*** and
- h. cost-ineffective procedures which shall be defined by the Corporation.”

These exclusions were already present in the old Medicare program but did not meet objections strong enough to warrant changes. PhilHealth did not deem it fit to revise them, either.

### How does the exclusion of normal obstetrical services affect women?

The exclusion of normal obstetrical services discriminates against the rights of women to bear children and to undergo normal delivery, especially now that natural childbirth and baby-friendly methods are being promoted in the public health system. It also induces both women and the service provider to choose surgical methods over normal delivery so that they may be able to claim benefits and reimbursement of expenses. This is ironic since new natural methods are proven to be more beneficial to both mother and child than surgical methods.



**What happens to abused women because of the exclusion from services offered by the NHI Law of outpatient psychotherapy and counseling for mental disorders and home and rehabilitation?**

Victims and survivors of violence against women ((VAW) who are members or dependents of members of the PhilHealth may exhibit mental instability which can be attributed directly to the abuse. Since most victims are in the low-income bracket, they may not be able to afford psychotherapy and counseling - which are critical to the treatment and prevention of VAW - because these are excluded from the benefits offered by the NHI Law.

**What is the issue about the accreditation of VAW counselors as legitimate health professionals?**

At present VAW counselors are not recognized as professional health providers and are not accredited by PhilHealth. Therefore they and the victims cannot avail of insurance claims. This must be changed, however. And together with the lack of such accreditation is the issue that VAW is not recognized as a valid medical condition eligible for claims.

**Some women may have physical scars after being VAW victims. Can they get help from the NHI Law?**

No, since they cannot claim for cosmetic surgery under the NHI Law when, in fact, to help them fully recover from their ordeal, all traces of the abuse must be removed, especially its most visible manifestation - physical scars.

## The CIVIL SERVICE CODE

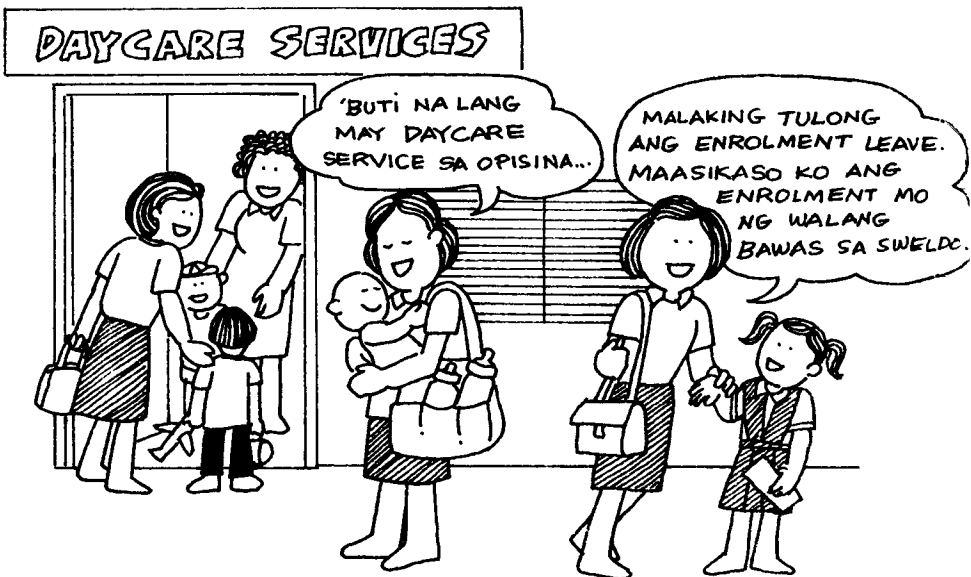
### What are civil service laws?

**C**ivil service laws cover the conduct of public servants in the performance of their duties and functions. They are generally more strict than the Labor Code which governs workers in the private sector.

### Has the Civil Service Code changed to address gender equality issues?

The Code now makes it easy for women to avail of training and promotions. Where they used to be limited by pregnancy and young children in the availment of foreign training, the Civil Service Code now specifically states otherwise.

And in the context of part-time employment, the government has also instituted reforms that take care of the mothering needs of its women employees. For instance, some government offices





have creche and day care services, and others are encouraged to do so. In addition, the government gives enrollment leave to mothers so that they can attend to their children's school needs.

**Does the Civil Service Code still have some provisions that have not caught up with the recent changes in the status of women? What are these?**

Leaves for non-permanent employees are provided for by:

- a. Section 2, Rule XVI - ***casual or emergency status employees*** "shall be entitled to vacation and sick leave after having rendered a total of at least six months of service in the aggregate, provided such six-month period does not involve a single break of more than one week and/or several breaks of from one to three days, the total of which should not exceed 15 days.
- b. Section 3 - ***employees rendering services on a part-time basis*** are entitled to pro-rated vacation and sick leave credits but with the same limitations as in the previous section.
- c. Section 4 - "***Employees hired on a contractual basis*** are not entitled to vacation and sick leave credits. Employment contract shall not provide for such leave benefits." These provisions do not provide full benefits to women who are mostly part time workers precisely because of household work.

**Although the Civil Service Code gives part-time and casual employees vacation and sick leave credits proportionate to the hours of work rendered (7.5 days for 20 hours of work), what are the limitations?**

Employees can get leave only after rendering continuous six months of service with only a one-week break. This is too harsh

and unreasonable. Absences due to illness or injury, especially if work-related, should not be taken against them.

**Civil service rules on maternity benefits are even more stringent than on leaves. What are some of these provisions?**

The following are the provisions in question:

- a. Section 12 - 'Married women in the government service who have rendered an aggregate of two or more years of service, shall, in addition to vacation and sick leave granted to them, be entitled to maternity leave of 60 days with full pay.'
- b. Employees who have worked for less than two years get prorated leave credits or pay.
- c. Section 13 - grants maternity leave to female married employees in every instance of pregnancy irrespective of its frequency.

**Why can we say that the Civil Service Code provisions on maternity leave are still unsatisfactory?**

The provisions discriminate against female employees who are not legally married but pregnant. Giving birth is not exclusive inside of marriage. Although proper decorum and moral ascendancy are desirable in public service, the Code should not discriminate against those who are under special circumstances (such as those abandoned by partners) and who



chose alternative lifestyles as long as performance of duties and functions is not compromised. After all, Section 7 of Rule XVIII states, “No discrimination shall be exercised, threatened or promised against, or in favor of, any person examined or to be examined or employed, by reason of his political or religious opinions or affiliations, sex or civil status”.

**Is the Labor Code more generous than the Civil Service Code on maternity leaves? What are the provisions for a private-sector woman employee?**

The Labor Code has the following provisions:

- a. Art. 133 - “every employer shall grant to **any pregnant woman employee**, who has rendered an aggregate service of at least six months for the last 12 months, maternity leave of at least two weeks before and four weeks after delivery.” But it covers only the first four deliveries.
- b. Section XI on Workers Statutory Monetary Benefits - “Every pregnant woman in the private sector, **whether married or unmarried** is entitled to maternity leave of sixty days in case of normal delivery, abortion or miscarriage, or 78 days in case of caesarian delivery...” However, the woman must be an SSS member and employed at the time of delivery, miscarriage or abortion to avail of the benefits. Non-SSS members cannot avail of the above.

**Is paternity leave in the Civil Service Code adequate?**

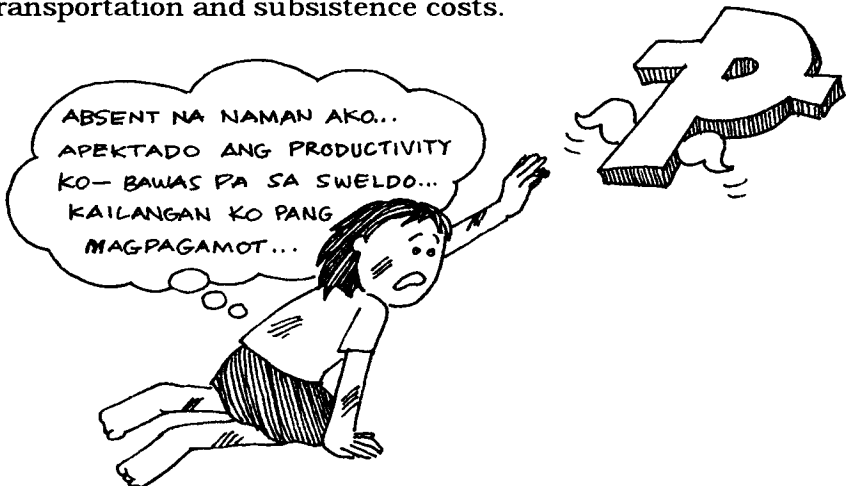
Seven days is too short for fathers to help their wives recover from childbirth and for themselves to bond with their children. And while male employees can avail of paternity leaves regardless of marital and employment status, only married female employees who are permanently employed can avail of maternity benefits.

**What about the Civil Service Code provision for leaves for birthdays, funeral, enrolment, relocation and anniversaries?**

Three days per year is likewise too short. Women, especially mothers, have to take care of other members of the household as well as of their own. For example, not only do they take care of their own birthday celebrations but also those of their husbands and children. And while they take care of other household members who get sick, the Code does not say if they can get sick leave credits in these cases.

**Does the Civil Service Code protect employees who are injured as a result of VAW in the work place?**

Section 19 of Rule XVIII of the Civil Service Code gives employees extended or additional leave credits for injuries incurred in the performance of duties, as well as full pay and payment of medical attendance, necessary transportation, subsistence and hospital fees. But it does not include injuries, whether physical or emotional, as a result of VAW (such as sexual harassment and abuse) occurring in the workplace. Victims of VAW actually spend quite a sum of money because of such abuse in terms of medical, transportation and subsistence costs.

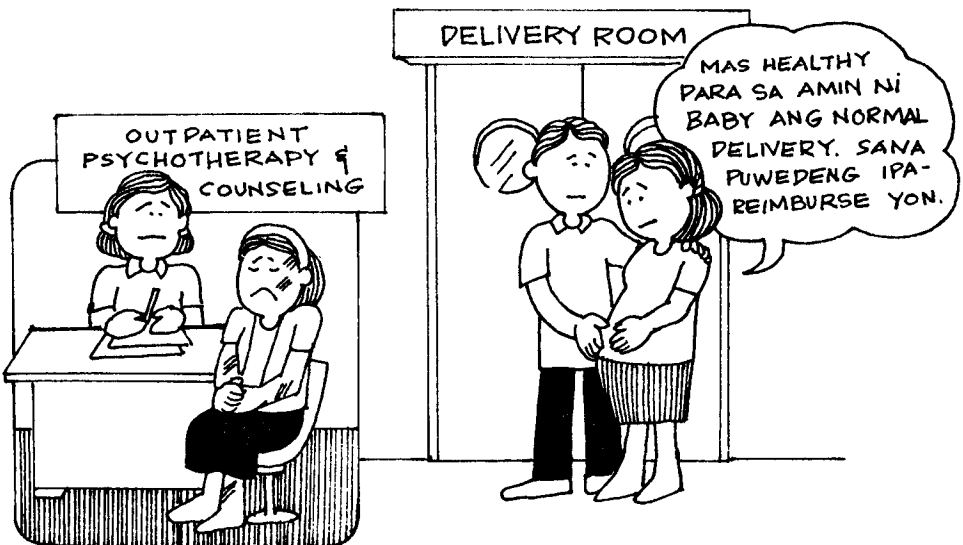


## POLICY RECOMMENDATIONS

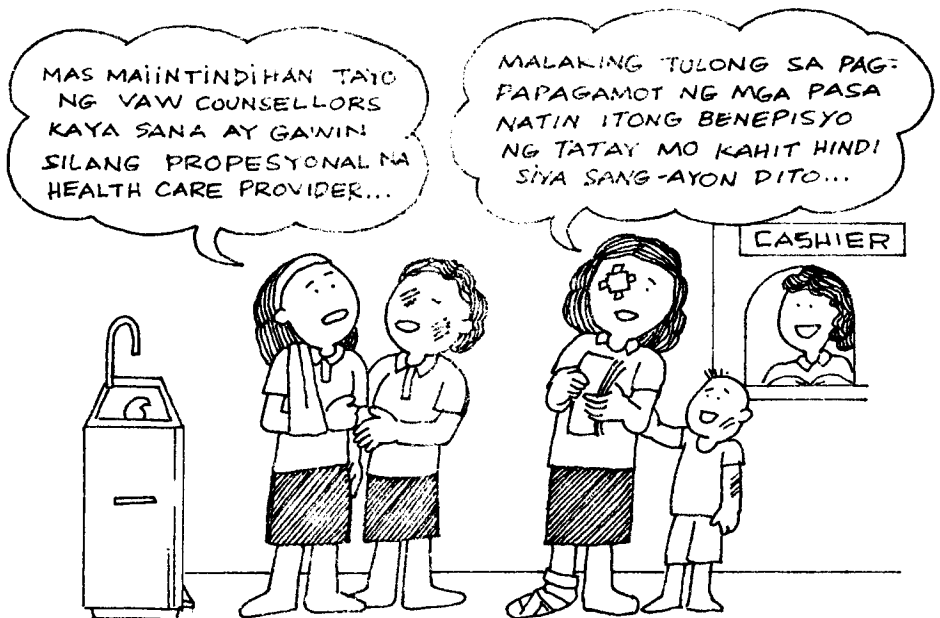
It is clear from the situation analysis that the State, whether consciously or not, is guilty of inflicting violence on women workers by either neglecting to provide basic services or by passing anti-women legislation.

Now that the Philippine government has signed various global agreements ending gender discrimination, it is right to push for reforms in the areas of civil service regulation and labor protection. It is but fitting to propose the following:

1. Amend Section 11 of the National Health Insurance Law to include outpatient psychotherapy and counseling, home and rehabilitation services and cosmetic surgery in the list of services covered, specifically in cases of VAW. Mandate the PhilHealth to conduct actuarial studies on the financial impact of including these services, and to determine the feasibility of either phasing-in or completely including these services.



2. Include normal obstetric delivery in the list of services covered by the NHI Law. This is particularly relevant in the light of the promotion of natural birthing and baby-friendly practices. Mandate the PhilHealth to conduct actuarial studies on how much this will cost the system.
3. Amend the Implementing Rules and Regulations (IRR) of the NHI Law, particularly Section 4.0, to include and accredit VAW counselors as professional health care providers.
4. Amend the IRR of the NHI Law to allow female spouse-dependents and other dependents (like female children) to avail of benefits even without the approval of the member (the male spouse/father), especially in cases of VAW and/or domestic violence. Allow the battered wife or child to claim benefits even without the expressed approval of the husband



who is the PhilHealth member. All expenses allowable under the program and which are incurred in the treatment of the case should be reimbursed to the victim or paid for by the program.

5. Amend the IRR of the NHI Law to expressly provide that unmarried female members can avail of maternity benefits.
6. Amend the Civil Service Code to make its provisions on availment of vacation and leave credits more generous to part-time and contractual workers, most of whom are women, who can then be more productive both at home and at work.
7. Amend the Civil Service Code to increase maternity leave credits with full pay to more than two months. Allow breastfeeding mothers to work part-time at home to fully realize



the benefits or to provide feeding rooms and day care services in the offices. Likewise, increase paternity leave credits with full pay.

8. Amend the Civil Service Code to make it more consistent with the Labor Code in terms of maternity benefits to all pregnant women, regardless of civil status and number of pregnancy.
9. Amend the Civil Service Code to include injuries related to cases of VAW in the workplace as injuries incurred during the performance of duties and, therefore, eligible for leave credits and pay, and reimbursement of medical and transportation expenses.
10. Amend the Labor Code to grant maternity leave provisions to those who are self-employed and contribute to the SSS of the NHI/PHIC. Most women are in this situation, such as practicing professionals and self-employed workers who pay SSS premiums but cannot avail of maternity benefits for normal deliveries.

The recommendations to amend or revise the NHI Law can be easily pursued since the DOH and the DSWD are members of the PhilHealth Board. These two departments are also members of the NCRFW Board and are at the forefront of women-friendly policymaking and implementation.

On the other hand, revisions in the Civil Service Code and the Labor Code could be undertaken by the various lobby groups in coordination with the DOLE and the NCRFW.



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