

FIRST DIVISION

[G.R. No. 167330, June 12, 2008]

**PHILIPPINE HEALTH CARE PROVIDERS, INC., PETITIONER, VS.
COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.**

D E C I S I O N

CORONA, J.:

Is a health care agreement in the nature of an insurance contract and therefore subject to the documentary stamp tax (DST) imposed under Section 185 of Republic Act 8424 (Tax Code of 1997)?

This is an issue of first impression. The Court of Appeals (CA) answered it affirmatively in its August 16, 2004 decision^[1] in CA-G.R. SP No. 70479. Petitioner Philippine Health Care Providers, Inc. believes otherwise and assails the CA decision in this petition for review under Rule 45 of the Rules of Court.

Petitioner is a domestic corporation whose primary purpose is "[t]o establish, maintain, conduct and operate a prepaid group practice health care delivery system or a health maintenance organization to take care of the sick and disabled persons enrolled in the health care plan and to provide for the administrative, legal, and financial responsibilities of the organization."^[2] Individuals enrolled in its health care programs pay an annual membership fee and are entitled to various preventive, diagnostic and curative medical services provided by its duly licensed physicians, specialists and other professional technical staff participating in the group practice health delivery system at a hospital or clinic owned, operated or accredited by it.^[3]

The pertinent part of petitioner's membership or health care agreement^[4] provides:

VII BENEFITS

Subject to paragraphs VIII [on pre-existing medical condition] and X [on claims for reimbursement] of this Agreement, Members shall have the following Benefits under this Agreement:

In-Patient Services. In the event that a Member contract[s] sickness or suffers injury which requires confinement in a participating Hospital[,], the services or benefits stated below shall be provided to the Member free of charge, but in no case shall [petitioner] be liable to pay more than P75,000.00 in benefits with respect to anyone sickness, injury or related causes. If a member has exhausted such maximum benefits with respect to a particular sickness, injury or related causes, all accounts in excess of P75,000.00 shall be borne by the enrollee. It is[,], however, understood that the payment by [petitioner] of the said maximum in In-Patient

Benefits to any one member shall preclude a subsequent payment of benefits to such member in respect of an unrelated sickness, injury or related causes happening during the remainder of his membership term.

- (a) Room and Board
- (b) Services of physician and/or surgeon or specialist
- (c) Use of operating room and recovery room
- (d) Standard Nursing Services
- (e) Drugs and Medication for use in the hospital except those which are used to dissolve blood clots in the vascular systems (i.e., trombolytic agents)
- (f) Anesthesia and its administration
- (g) Dressings, plaster casts and other miscellaneous supplies
- (h) Laboratory tests, x-rays and other necessary diagnostic services
- (i) Transfusion of blood and other blood elements

Condition for in-Patient Care. The provision of the services or benefits mentioned in the immediately preceding paragraph shall be subject to the following conditions:

- (a) The Hospital Confinement must be approved by [petitioner's] Physician, Participating Physician or [petitioner's] Medical Coordinator in that Hospital prior to confinement.
- (b) The confinement shall be in a Participating Hospital and the accommodation shall be in accordance with the Member[']s benefit classification.
- (c) Professional services shall be provided only by the [petitioner's] Physicians or Participating Physicians.
- (d) If discharge from the Hospital has been authorized by [petitioner's] attending Physician or Participating Physician and the Member shall fail or refuse to do so, [petitioner] shall not be responsible for any charges incurred after discharge has been authorized.

Out-Patient Services. A Member is entitled free of charge to the following services or benefits which shall be rendered or administered either in [petitioner's] Clinic or in a Participating Hospital under the direction or supervision of [petitioner's] Physician, Participating Physician or [petitioner's] Medical Coordinator.

- (a) Gold Plan Standard Annual Physical Examination on the anniversary date of membership, to be done at [petitioner's] designated hospital/clinic, to wit:
 - (i) Taking a medical history
 - (ii) Physical examination
 - (iii) Chest x-ray
 - (iv) Stool examination
 - (v) Complete Blood Count
 - (vi) Urinalysis
 - (vii) Fasting Blood Sugar (FBS)
 - (viii) SGPT
 - (ix) Creatinine
 - (x) Uric Acid

- (xi) Resting Electrocardiogram
- (xii) Pap Smear (Optional for women 40 years and above)
- (b) Platinum Family Plan/Gold Family Plan and Silver Annual Physical Examination.

The following tests are to be done as part of the Member[`]s Annual check-up program at [petitioner's] designated clinic, to wit:

- 1) Routine Physical Examination
- 2) CBC (Complete Blood Count)
 - * Hemoglobin
 - * Hematocrit
 - * Differential
 - * RBC/WBC
- 3) Chest X-ray
- 4) Urinalysis
- 5) Fecalalysis
- (c) Preventive Health Care, which shall include:
 - (i) Periodic Monitoring of Health Problems
 - (ii) Family planning counseling
 - (iii) Consultation and advices on diet, exercise and other healthy habits
 - (iv) Immunization but excluding drugs for vaccines used
- (d) Out-Patient Care, which shall include:
 - (i) Consultation, including specialist evaluation
 - (ii) Treatment of injury or illness
 - (iii) Necessary x-ray and laboratory examination
 - (iv) Emergency medicines needed for the immediate relief of symptoms
 - (v) Minor surgery not requiring confinement

Emergency Care. Subject to the conditions and limitations in this Agreement and those specified below, a Member is entitled to receive emergency care [in case of emergency. For this purpose, all hospitals and all attending physician(s) in the Emergency Room automatically become accredited. In participating hospitals, the member shall be entitled to the following services free of charge: (a) doctor's fees, (b) emergency room fees, (c) medicines used for immediate relief and during treatment, (d) oxygen, intravenous fluids and whole blood and human blood products, (e) dressings, casts and sutures and (f) x-rays, laboratory and diagnostic examinations and other medical services related to the emergency treatment of the patient.]^[5] Provided, however, that in no case shall the total amount payable by [petitioner] for said Emergency, inclusive of hospital bill and professional fees, exceed P75,000.00.

If the Member received care in a non-participating hospital, [petitioner] shall reimburse [him]^[6] 80% of the hospital bill or the amount of P5,000.00[,], whichever is lesser, and 50% of the professional fees of non-participating physicians based on [petitioner's] schedule of fees provided that the total amount[,], inclusive of hospital bills and professional fee shall not exceed P5,000.00.

On January 27, 2000, respondent Commissioner of Internal Revenue sent petitioner a formal demand letter and the corresponding assessment notices demanding the payment of deficiency taxes, including surcharges and interest, for the taxable years

1996 and 1997 in the total amount of P224,702,641.18. The assessment represented the following:

	Value Added Tax (VAT)	DST
1996	P 45,767,596.23	P 55,746,352.19
1997	54,738,434.03 P	68,450,258.73
	100,506,030.26	P 124,196,610.92

The deficiency DST assessment was imposed on petitioner's health care agreement with the members of its health care program pursuant to Section 185 of the 1997 Tax Code which provides:

Section 185. *Stamp tax on fidelity bonds and other insurance policies.* - **On all policies of insurance or bonds or obligations of the nature of indemnity for loss, damage, or liability made or renewed by any person, association or company or corporation transacting the business of accident, fidelity, employer's liability, plate, glass, steam boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance),** and all bonds, undertakings, or recognizances, conditioned for the performance of the duties of any office or position, for the doing or not doing of anything therein specified, and on all obligations guaranteeing the validity or legality of any bond or other obligations issued by any province, city, municipality, or other public body or organization, and on all obligations guaranteeing the title to any real estate, or guaranteeing any mercantile credits, which may be made or renewed by any such person, company or corporation, there shall be collected a documentary stamp tax of fifty centavos (P0.50) on each four pesos (P4.00), or fractional part thereof, of the premium charged. (emphasis supplied)

Petitioner protested the assessment in a letter dated February 23, 2000. As respondent did not act on the protest, petitioner filed a petition for review in the Court of Tax Appeals (CTA) seeking the cancellation of the deficiency VAT and DST assessments.

On April 5, 2002, the CTA rendered a decision,^[7] the dispositive portion of which read:

WHEREFORE, in view of the foregoing, the instant Petition for Review is PARTIALLY GRANTED. Petitioner is hereby ORDERED to PAY the deficiency VAT amounting to P22,054,831.75 inclusive of 25% surcharge plus 20% interest from January 20, 1997 until fully paid for the 1996 VAT deficiency and P31,094,163.87 inclusive of 25% surcharge plus 20% interest from January 20, 1998 until fully paid for the 1997 VAT deficiency. Accordingly, VAT Ruling No. [231]-88 is declared void and without force and effect. The 1996 and 1997 deficiency DST assessment against petitioner is hereby CANCELLED AND SET ASIDE. Respondent is ORDERED to DESIST from collecting the said DST deficiency tax.