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Date: November 20, 2016
In your response please
note: 31490

To:
Advocate Miriam Rosental
Chair of the Humanitarian Committee
Ministry of Interior
125 Menachem Begin Road
Tel Aviv

By Fax: 02-6469438

And Registered Mail

4 Abu Obeidah St.
Jerusalem 97200
Tel. +972.2.6283555
Fax. +972.2.6276317

شارع أبو عبيده ٤
القدس ٩٧٢٠٠
هاتف. ٠٢. ٦٢٨٣٥٥٥
فاكس. ٠٢. ٦٢٧٦٣١٧

Dear Chair,

Re: **Urgent Request regarding the entering into force of the National Health Insurance Regulations (Registration with a Health Fund, Rights and Obligations of the holders of a stay permit according to the Citizenship and Entry into Israel Law (Temporary Order), 5763-2003), 5776-2016**

mail@hamoked.org.il
www.hamoked.org.il

1. On behalf of HaMoked: Center for the Defence of the Individual (hereinafter: **HaMoked**), a human rights organization handling, *inter alia*, the rights of East Jerusalem residents and their family members, I wish to protest before you on the above captioned matter as follows:
2. On August 1, 2016, the new health regulations (hereinafter: the **regulations**) entered into force obligating each Palestinian holding a stay permit in Israel – whether granted in the framework of a family unification procedure or through the humanitarian committee – to arrange health insurance coverage.

A copy of the above regulations is attached hereto, marked **A**.

However, the blessing is mixed. Along the blessed decision to provide all individuals lawfully residing in Israel with national health insurance, the regulations in their current form have severe ramifications on all individuals holding stay permits. Furthermore. The individuals most critically injured from the regulations are precisely those having humanitarian circumstances, those whose cases are discussed by the honorable committee, which is known to serve as a valve regulating the severe harm embedded in the Temporary Order.

In view of the above, we wish to draw the attention of the honorable committee to the severe ramifications of the new regulations on the residents of East Jerusalem and their family members who apply to the committee and request relief. We shall discuss the issue in an orderly manner.

Background: the individuals turning to the committee

3. As is known, the vast majority of the requests submitted to the honorable committee concern downtrodden and weakened applicants who, in general, are of a very low socio-economic class, including orphans, widows, battered women, chronic patients, individuals having different medical disabilities, stateless persons, etc. In short, the population turning to the committee and requesting relief is a highly troubled population which in most cases is very poor.

The severe harm inflicted by the regulations on individuals having humanitarian circumstances

4. The severe harm embedded in the regulations when individuals having humanitarian circumstances are concerned is twofold: the first harm derives from the inherent delay in the commencement of the entitlement date to health services, and the other derives from the uniform and high payment which all holders of stay permits are required to pay, regardless of their individual circumstances.
5. All of the above, when the current position of the state – as expressed in a host of petitions to the High Court of Justice concerning decisions of the humanitarian committee – is that in view of the fact that the regulations entered into force, humanitarian solution may be given, even where the medical condition requires frequent medical services, by the grant of a stay permit only, and therefore it is no longer justified to prefer the grant of a temporary status over a stay permit. Against this position we wish to protest in our letter to you.

Commencement of the entitlement date

6. According to the new regulations, anyone holding a stay permit, having a family member who is an Israeli resident, is required to wait a whole 33 month period before he is entitled to enjoy national health insurance services. The above 33 month period consists of a "**qualification period**" of 27 months during which one should lawfully stay in Israel before he can register with a health fund (*Kupat Holim*) and of an additional six month period referred to as a "**waiting period**", starting upon the termination of the "qualification period". Only upon the termination of the waiting period the holder of a stay permit will be actually registered with a health fund and only then shall his entitlement to receive health service begin. In other words: any OPT resident holding a stay permit and having family members residing in Israel is required to wait almost three years from the date on which he has initially received a stay permit, before he can enjoy health insurance services. And indeed, individuals holding stay permits over a period exceeding 33 months are exempt according to the regulations (see section 9 of the regulations) from a waiting period and are entitled to immediately register with a health fund and receive health services – but they also suffer from the second harm on which we shall elaborate below.
7. Although the postponement of the entitlement date for national health services by almost three years harms all stay permit holders, when the population of applicants to the committee is concerned, the harm is severe and unreasonable. It is inconceivable that sick people, children, battered women, etc., will have to wait almost three years before they can receive professional health service, with all ensuing consequences. Hence, the above

indicates that the regulations in their present form do not assist individuals having humanitarian circumstances who need medical services and professional consultation on a frequent and immediate basis. Therefore, In view of the fact that the regulations entered into force, the decision of the committee to grant a stay permit and alternatively, to revoke the temporary status of individuals having humanitarian circumstances and grant them a permit instead, is a crucial decision.

The obligation to make a one-time, uniform retroactive payment

8. Moreover. The regulations set out another threshold condition pertaining to all holders of stay permits having family members residing I Israel: the entitlement to receive health service is subject to a one-time, uniform retroactive payment which should be paid by the permit holders upon the termination of the qualification period and prior to the waiting period for joining the national health arrangement.
9. The amount of said payment is calculated based on the current monthly installment payable by each insured party to the health fund, multiplied by the number of months of the qualification period. In 2016, the monthly installment amounts to 285 ILS. It should also be emphasized that for a family having more than one stay permit holder, the amount of the retroactive payment is doubled (see section 4(a) of the health insurance regulations).
10. In other words: the one-time retroactive payment which a holder of a stay permit having family members who are Israeli residents must pay, as a condition for his entitlement to health services, amounts to $285 \text{ ILS} \times 27 = \mathbf{7,695 \text{ ILS}}$. As aforesaid, if the family has more than one holder of a stay permit, the sum is doubled and amounts to **15,390 ILS**.
11. We shall reiterate and emphasize that according to a circular of the Director-General of the Ministry of Health, holders of stay permits including individuals who obtained such permits for special humanitarian reasons according to section 3A1(a)(2) of the Temporary Order, must register with a health fund under the conditions described above.
12. In addition, the above Director-General's circular stipulates that on the registration date the payment of special insurance fees, both retroactively as well as the ongoing monthly installments, should be arranged – see section 1 of the circular of the Director-General of the Ministry of Health, regulation 2(b)(1) and regulation 2 c)(2) section 5.
13. Furthermore. According to the above Director-General's circular, the sum of the initial retroactive payment is uniform and does not depend on the income of the holder of the stay permit for whose registration the payment is demanded – see regulation 4(1)2A to the circular of the Director General of the Ministry of Health. It should also be noted that in the framework of the regulations in their current form there is no possibility to submit an application for exemption or reduced rates.
14. Finally it should be noted that a holder of a stay permit who will not pay the required amounts as specified above, the health fund may initiate against him legal proceedings, including collection proceedings, with all ensuing consequences (see sections 5-6 to Schedule C of the Director-General's circular).

A copy of the circular of the Director-General of the Ministry of Health is attached hereto and marked **B**.

15. At this point we would like to point at another issue. The fact that holders of stay permits who have been residing in Israel for a long period of time are not required to wait 33 months is rather an obstacle, since they are required to immediately pay the one-time retroactive payment established in the regulations and they have already received demands from the health funds to pay said amount within a very short time frame.
16. Accordingly, as it happens with respect to the long waiting period for actual entitlement to health services, it so happens with respect to the one-time high retroactive payment imposed on all permit holders, the group exposed more than anybody else to the harm caused by the regulations is the group of individuals having humanitarian circumstances. It should be reiterated that many of the applications concern orphans, battered women, widows, stateless persons, etc. and the question is, can these unfortunate individuals pay the high payment which was imposed on them? It is therefore clear that for many of those having humanitarian circumstances whose cases are considered by the honorable committee, the regulations are not at all a blessing. On the contrary, we are concerned that the grant of a stay permit by the honorable committee will only add to the already existing distress of the applicants.
17. Hence, in the matter of applicants with humanitarian circumstances who are anyway weakened, and who, in the vast majority of the cases, belong to a low socio-economic class and live on the margins of society, HaMoked's position is clear: among the entire considerations which the honorable committee should consider before it decides whether an applicant should be given a stay permit or a temporary residency status – and alternatively, whether to continue to extend applicant's temporary residency status or maybe to "reduce" his status and give him a stay permit only – the committee should also seriously consider the date on which the applicant would be entitled to actually receive health services and whether he would be able to meet the uniform and high retroactive payment imposed on the holders of stay permits by the regulations.

Conclusion

18. The above indicates that the situation created by the health regulations which entered into force in their current version is very problematic. It also seems that it is a decree which the community cannot withstand. In view of the above we are of the opinion that with respect to applicants having humanitarian circumstances, it is incumbent upon the honorable committee to see things as they really are and prevent a situation which will only worsen the already complicated situation of individuals having humanitarian circumstances – either due to their medical condition and the date of their entitlement to health services, or due to their inability to meet the high payments imposed on them according to the regulations.

19. The committee's pertinent and prompt response to the content of this letter is appreciated in advance.

Very truly yours.

Benjamin Agsteribbe , Advocate

CC:
Schedules A-B