

the lung was not suitable. We returned to the hospital and brought him home. At the hospital, they requested that I bring the health fund's commitment to pay the hospital bill. The next day, I went to our health fund and obtained the document.

Three weeks later, my husband needed further hospital treatment. I went to the health fund, and the clerk told me that my husband does not have medical insurance. I told her, "That is impossible. He is always being treated, and I always obtained a commitment from you, and there never was a problem." She said, "It is impossible to print out a commitment from the computer. Go to the NII." I went to the NII, and they told me that my husband does not have medical insurance. I asked why, and they told me to file suit.

My husband died on 22 December 1997. Forty days later, I went to the Ministry and replaced my identity card, and they wrote "widow" instead of "married." I went to the NII with my new identity card and requested that they give me the amount of money that they give for burial, and I also requested the allotment that I am supposed to receive as a widow. Three weeks later, the NII responded in writing, indicating that I am not entitled to the payments. I asked why, and the reason they gave was that we live in a-Ram. I have never lived in a-Ram, but they weren't interested in that.¹⁰⁷

The determination that Mr. Qarqi had resided in a-Ram was based on several investigations. The first investigation was conducted in November 1990, when the NII investigator spoke with Mr. Qarqi's father. The father stated that his son had moved to a-Ram three years earlier. Based on that, the NII determined that he had not been a resident since 1987. In October 1995, the NII conducted another investigation. Its

investigator spoke with a person who had been Mr. Qarqi's landlord in a-Ram. The landlord indicated that Mr. Qarqi left his home in a-Ram in 1990 and that he had not seen him since then and did not know where he was living. An additional investigation was conducted a month later, when Mr. Qarqi's son, Hazem, who lives in a-Ram, was questioned. Hazem stated that he [Hazem] lives alone in his home in a-Ram. On the basis of these investigations, it was determined that Mr. Qarqi does not live in Jerusalem, even though the NII had no positive proof of this fact.

4. Health Insurance

The State Health Insurance Law, which took effect on 1 January 1995, changed the method of providing health services in Israel and established that the NII would be responsible for collecting payments for these services. The objective of the law was to provide health insurance to every Israeli resident and to prevent a situation in which a resident of Israel would not be able, for financial reasons, to obtain medical care. The Law also provided, therefore, an explicit provision stipulating that medical treatment was not to be conditioned on the payment of sums owed.¹⁰⁸ The Law is particularly intended to assist the financially-disadvantaged, who had not been obtaining health insurance voluntarily.

The manner in which the NII performs the functions imposed upon it under the Law is problematic and violates, in part, the Law and its purpose. As a result, many residents do not have State Health Insurance and are dependent on private medical services, whose cost far exceeds the economic means of many residents of East Jerusalem. The main group of persons harmed by this policy is the

107. The testimony was given to B'Tselem researcher Marwah J'bara-Tibi on 1 June 1998 in Shu'afat.

108. Section 21(B) of the State Health Insurance Law, 5754-1994 (hereafter: the Health Insurance Law).

children of residents of East Jerusalem whom the Ministry did not give identity numbers and the non-resident spouses of East Jerusalem residents.

In May 1997, HaMoked filed suit in the labor court on behalf of eleven children whom the NII did not insure with health insurance.¹⁰⁹ The plaintiffs argued in principle against the NII's policy in East Jerusalem as it relates to health insurance. When, just before the hearing, the NII announced that the children were insured, the judge refused to hear these claims.

Examining Entitlement to Health Insurance

Under section 3(A) of the Health Insurance Law, "Every resident is entitled to health services." The Law defines "resident" as "a person who is a resident under the National Insurance Law."¹¹⁰ The NII does not distinguish between conducting investigations to determine entitlement under the National Insurance Law and an investigation for the purposes of the Health Insurance Law, and investigates every claim for health insurance. Until the end of the investigation, which takes many months, the claimant is not insured. Since most claims are approved, claimants are denied their entitlement to receive health insurance for lengthy periods of time during which they were entitled to it. Denial of health insurance to residents of Israel violates the Law.

The NII also investigates cases where the claimant already receives allotments from the NII and health insurance coverage and wants to register their young children with a health fund. Under the Law, "A resident who has attained eighteen years of age must be registered as a member of the health fund of his choice, and must register his minor children in it [the health fund]."¹¹¹ There exists, therefore, an assumption in the Law that in cases where the parent is already recognized as a resident of Israel, his or her children are recognized as residents. Conducting an additional investigation in these cases results in many children being uninsured until the investigation is completed. Physicians for Human Rights estimates that there are some ten thousand Palestinian children in East Jerusalem who are not covered by health insurance.

The authority of the NII to conduct investigations to determine entitlement under the Health Insurance Law is questionable. Contrary to the National Insurance Law, the Health Insurance Law does not empower the NII to investigate, and its function under that law is limited to collecting the insurance payments from the insured and distributing them to the health funds.

The Knesset deliberations on the Health Insurance Law support the above analysis. In those deliberations, it was stated that the objective in giving the NII the responsibility for collection is to remove insurance-payment collection from the health funds

109. *The Children's Suit*. Attorney Leah Glicksman-Kochavi represented the plaintiffs.

110. Section 2 of the Health Insurance Law.

111. *Ibid.*, section A(4).

and transfer it to a governmental body. The NII was chosen to perform this function because its collection system had been proven to be especially efficient.¹¹²

The NII argues that Regulations enacted pursuant to the Health Insurance Law empower it to investigate in matters dealing with health insurance.¹¹³ The Regulations state that a resident wanting to register at a health fund, register his or her minor child at a health fund, or switch to another health fund, must submit a "Registration and Transfer Form" at the Postal Bank, which is forwarded to the NII. Section 8 of the Regulations provides:

- A. Where the Institute received a Registration and Transfer Form or a Revocation Form and the details contained in the magnetic tape pursuant to the provisions of section 7A, it shall check the details, including verification of the information in its possession.
- B. Where the Institute saw that the details provided to it on the Registration and Transfer Form or the Revocation Form are complete and consistent with the information in its possession, and that the conditions have been met under the law for registering at health funds,

transferring from one fund to another, or canceling a transfer (hereafter - registering and changing registration), it shall notify the receiving fund...

- C. Where the Institute saw that details stated on the Registration and Transfer Form or the Revocation Form are lacking, are inconsistent with the information in its possession, or that according to information in its possession or details on the form, the conditions under the law for registering and changing registration have not been met, the form will be considered as if it had not been submitted...

According to the NII's interpretation, these regulations establish that, "Examining the conditions for receiving health services and primary examination of the residency of the applicant to receive the services, which are conditions to receiving the health services, are imposed on Respondent 1 [the NII]."¹¹⁴

This interpretation is not precise. Under section 8(A), the NII is only empowered to check the details provided to it on the request form and to compare it with the information on its records. The Regulations do not suggest in any way that the NII is empowered to conduct an additional investigation to clarify further details.

112. In the Knesset deliberations, MK Amir Peretz, Chairman of the Committee on the State Health Insurance Law, presented the Law and explained, as regards collection, that, "Many years ago, the Parallel Levy [health insurance premium] had been collected by the Levy Offices [of the health funds]. When they transferred collection of the Parallel Levy to the NII, revenues rose by hundreds of millions of shekels. Today, when the NII begins collection, 1.3 million shekels will be added to the total revenues for health... There is now broad national agreement, total consensus of the Knesset, from side to side, that all the collections will be performed through the NII" (*Knesset Records*, session of 13 June 1994, Booklet 34, Meeting 228). After the Law was enacted, responsibility for collecting the insurance premiums was transferred from the Ministry of Health to the Ministry of Labor and Social Welfare, which is responsible for the NII. When the Law was amended, the Minister of Health explained the reason for this: "This amendment, as it relates to collection and distribution, transfers responsibility from the Ministry of Health to the Ministry of Labor and Social Welfare, with the NII being involved primarily in collection and then distribution. The registration remains the responsibility of the Ministry of Health" (*Knesset Records*, session of 1 November 1994, Booklet 5, Meeting 215).

113. State Health Insurance Regulations (Registration at Health Funds and Transfer Procedures), 5755-1995, *Kovetz Takannot* 5755, p. 490, and their amendment of 1998, *Kovetz Takannot* 5758, p. 328.

114. Par. 4(D) of the State's answer in the *Children's Suit*.

According to section 8(B), where the details provided are consistent with the information in its possession, the NII must register the applicant or his or her minor child with the health fund. Only where there is an inconsistency between the details provided and those in its possession may the NII, under section 8(C), deny the request.

The NII relies on the provisions of section 8(B), which state that it must verify that "the conditions of the Law have been met." The NII argues that residency in Israel is a condition for the granting of health insurance and that it is authorized, therefore, to investigate in order to verify that the person resides in Israel. However, section 8(C) clarifies the precise meaning of checking that the "conditions of the Law have been met." This provision stipulates that, "Where the Institute saw... that, according to information in its possession or details in the form, the conditions under the law for registering and changing registration have not been met, the form will be considered as if it had not been submitted..." Therefore, examination of whether the conditions under the Law are met may be made only on the basis of the information already in the NII's possession or on details provided by the applicant.

If the NII insists on also conducting investigations to determine entitlement under the Health Insurance Law, it should at least grant health insurance to the claimant until it completes the investigation. This was the determination of the annual report of the ombudsman under the Health Insurance Law, Dr. Karni Rubin, which she submitted to the Minister of Health in early August 1998.¹¹⁵

Medical care is expensive and can reach tens of thousands of shekels and more. The implications of delaying health insurance differ from that of a delay in payment of allotments under the National Insurance Law, since in most cases the allotment amounts to a few hundred shekels a month. A person is usually able to cover these few hundred shekels or obtain them from other sources until the investigation is completed. For medical treatment, however, there is usually no feasible alternative.

As regards non-resident spouses of Jerusalem residents, the NII determined that they will be covered by health insurance only after receiving a temporary-resident or permanent-resident permit from the Ministry.¹¹⁶ Such approval can be obtained only after approval of the request for family unification, which takes many years and in most cases is obtained only after the applicant petitions the High Court of Justice.¹¹⁷

In the past, the NII considered continuous and lawful stay in Israel to be sufficient. In May 1997, the head of the Population Administration of the NII informed Physicians for Human Rights that the NII will recognize the entitlement of persons who are in Israel pursuant to a lawful permit to stay in the country – whether issued by the Ministry or the Civil Administration.¹¹⁸ Since July 1997, the NII requires a permit to stay issued by the Ministry, and does not recognize visitor's permits or permits of the Civil Administration in the Occupied Territories, even if they are issued for an extended period that constitutes continuous and lawful stay in Israel. As a result, non-resident spouses

115. *Ha'aretz*, 6 August 1998.

116. In the first half of 1997, the NII argued that only a permanent-residency permit, and not a temporary-residency permit, entitles its holder to health insurance. This determination was changed in the context of the suit in the Jerusalem District Labor Court filed by the Jerusalem Human Rights Center, after which it was determined that a temporary resident is eligible for health insurance. In a letter of 25 December 1997, Dr. Karni Rubin, ombudsman under the Health Insurance Law, wrote to Physicians for Human Rights that approval of temporary residency grants "the right to health insurance and health services."

117. On this matter, see p. 20.

118. The comments were made in a telephone conversation on 19 May 1997.

staying in Jerusalem for a prolonged period of time are not able to obtain the health insurance.

As a result of the requirement that the Ministry issue the permit, which is a near impossibility, many persons staying in Israel do not benefit from health insurance. Furthermore, conditioning insurance coverage on lawful status granted by the Ministry defeats the objective of the Law.

Temporary Numbers

Even after completion of the investigation determining entitlement to health insurance, individuals who do not have an identity number must undergo another lengthy bureaucratic procedure. Only upon completion of the procedure are they entitled to receive medical services.

As a result of the Ministry's policies, many East Jerusalem residents, primarily children and non-resident spouses of Jerusalem residents, do not have identity numbers.¹¹⁹ The NII's computers use identity numbers to identify insured persons. A person who does not have an identity number must submit a special request to the NII for a temporary number to cover the period until the Ministry issues a permanent number.

The procedure for issuing these numbers is long and grueling. In response to a question whether arrangements had been made for

eligible persons to obtain medical services prior to issuance of the temporary numbers, the NII's spokesperson responded:

When a person's residency is determined, that individual is entitled to health services. The NII gives the person an authorization of residency without an identifying number, before an identifying number has been issued, to enable him to obtain health services.¹²⁰

What actually occurs, however, is different. A comprehensive examination by Physicians for Human Rights indicates that the Histadrut Health Fund and the Leumit Health Fund refuse to provide medical treatment to residents of East Jerusalem recognized by the NII unless they have a temporary number. Furthermore, transfer to a different health fund entails another NII investigation, taking many months, during which the individual does not receive health insurance.

The health funds argue that the NII delays issuing the identifying numbers to residents of East Jerusalem, causing the funds financial loss because they do not receive payment for services provided to persons without a number.¹²¹ The NII argues that the health funds violate the Law by refusing to treat persons who have been recognized as residents but have not yet received a number. The residents of East Jerusalem are caught in the middle, with no entity willing to take responsibility for their treatment.

119. See p. 18.

120. Letter of 19 May 1998 from Haim Pitosi, NII spokesperson, to B'Tselem. Avraham Mena, head of the NII's insurance division, sent a similar letter to the deputy director general of the Ministry of Health, Dr. Boaz Lev (on 18 February 1997), to Yaron Kanfu, head of the Jerusalem branch office of the NII's insurance and collection division (on 11 November 1996), and to Physicians for Human Rights (on 19 December 1996.)

121. For example, Ya'akov Katz, director general of Leumit Health Fund explained: "The NII authorization to Leumit Health Fund that the individuals are Israeli residents is insufficient, and the NII must confirm that the residents are registered with Leumit Health Fund" (letter to Physicians for Human Rights, dated 18 February 1997). In a conversation with HaMoked, held on 29 April 1997, Dina Korman, of the member's rights department of the Histadrut Health Fund, indicated that it is impossible to insure children until the NII issues temporary numbers, because the fund is not paid for treatment provided to children without a number.

Illustrative Cases

The following are some examples of the difficulties faced by residents of East Jerusalem attempting to obtain health insurance for their children. It should be noted that these problems were resolved only as a result of the intervention of human rights organizations and pressure placed on the NII and the health funds. In many other cases, where assistance is not sought, the persons are unable to receive medical treatment.

Year-old Infant suffering from Pneumonia

Jamila Dari, a resident of Jerusalem, is married to a resident of the West Bank. The NII recognizes her as a resident of Israel, and she receives a children's allotment and is insured with health insurance. In October 1996, she requested temporary numbers for her five children, none of whom had an identity number.

In April 1997, her daughter Fatma, who was then twenty-one months old, fell ill. Since Fatma did not yet have a temporary number, her parents took her to Mokassad Hospital, in East Jerusalem, where the physicians diagnosed a severe case of pneumonia. She was hospitalized, but after one night in the hospital, the family had to discharge her because it could not afford the costs of hospitalization. Mrs. Dari requested the NII to issue a commitment to pay the costs of medical treatment. The NII clerk informed her that it was impossible to issue the commitment because Mr. Dari is a resident of the West Bank and her daughter does not have an identity number.

Mrs. Dari requested the assistance of HaMoked, which referred the matter to Physicians for Human Rights (PHR). PHR covered the hospitalization costs of Fatma, even though, under the Law, she is entitled to health insurance. On 4 May 1997, following pressure from HaMoked and PHR, Mrs. Dari received confirmation that she had been recognized as a resident since 31 March 1990, and that her children are, therefore, entitled

to health insurance. The next day, her husband went to the health fund, but the fund's clerk refused to register the children, claiming that the NII had not given them temporary numbers. Only on 25 May 1997, after the children had received temporary numbers, did the health fund provide health services to Fatma.

PHR has not been reimbursed the money it paid to cover the hospitalization costs.

Three-month old Infant with Heart Problems

Hand al-'Ali, a resident of Beit Safafa [a neighborhood in Jerusalem], is married to Mahmud al-'Ali, a Jordanian citizen. In February 1998, the couple had a son, Sufiyan, and the NII covered the costs of the hospitalization and provided Mrs. al-'Ali with the birth grant. The Ministry did not issue an identity number to Sufiyan.

In May, Sufiyan was diagnosed as having heart problems, requiring an urgent heart operation. On 10 May 1998, her father requested the NII to issue a temporary number to Sufiyan. He annexed to his request a medical document indicating his daughter's serious medical condition. The NII clerk instructed him to return in a week, and explained that he would then have to wait about twenty days for the number.

On 12 May 1998, the couple contacted HaMoked, which referred them to PHR. The latter referred them to the NII to receive confirmation of their entitlement to health insurance. After receiving the confirmation, they went to the Histadrut Health Fund, which refused to treat Sufiyan on the grounds that she does not have a temporary number. PHR contacted the NII and demanded that, because of her serious condition, it urgently issue a temporary number to Sufiyan.

On 17 May, Mr. al-'Ali returned to the NII, where Uri Shaharbany, deputy director for insurance and collection at the East Jerusalem branch, informed him that his request would not be handled because his wife owed the NII NIS 4,300. As mentioned

previously, the Law explicitly prohibits conditioning health insurance on payment of money owed to the NII.

The NII rejected the father's request to pay the debt in installments. Having no choice, Mr. al-'Ali borrowed the money. After making the payment, he was told that his request would be handled in two to three months. He tried to explain that his son was very ill and might die, but the answer was the same.

On 19 May, PHR received a letter from Dr. Karni Rubin, ombudsman under the Health Insurance Law, stating that, "After a comprehensive investigation we conducted with the NII, Hand's son was issued an identity number... I enrolled him in the Histadrut Health Fund retroactively from his date of birth, 2 February 1998."

Prematurely-born Infant

Jamila Haruat, a resident of East Jerusalem, is married to 'Afif Haruat, a Jordanian citizen. In March 1997, Mrs. Haruat delivered a stillborn child. The NII recognized her as a resident of Israel and paid the hospitalization costs to the hospital.

On 5 November 1997, Mrs. Haruat gave birth prematurely to a daughter, who was born with a serious infectious disease. The hospital indicated that upon discharge, the infant would require neurology, neurosurgery, and immunology follow-up and developmental

monitoring. Without the follow-up treatment, her discharge from the hospital would be life-threatening. Since the NII again investigated her residency, it did not cover the cost of the hospitalization and did not insure the child with health insurance. The hospital charged the family NIS 5,400.

Two months later, the child required urgent medical treatment. On 21 January 1998, PHR requested the ombudsman under the Health Insurance Law to handle the matter urgently. On 26 February, PHR was informed that Mrs. Haruat should go to the collection department of the NII, pay her debt for 1987-1993, and "that her daughter would receive the medical insurance after her matter is arranged." Only on 15 March, following repeated requests by PHR, did Mrs. Haruat receive confirmation that her daughter is recognized as a resident of Israel.

Mrs. Haruat took the confirmation to the health fund to register her daughter, but the fund refused to treat her until the NII had issued her a temporary number. On 16 March, the NII issued her daughter a temporary number. In a letter of 7 April from Avraham Mena, head of the insurance division of NII, to PHR, Mena stated: "Mrs. Haruat Jamila has been properly insured since 1984. All she has to do to receive confirmation of her insurance is to go to Mr. Shaharbany at our branch in East Jerusalem."