



**LEGAL SERVICE
GENERAL ADMINISTRATION AND SUPPORT
SERVICES GROUP**
DSWD-GF-004 | REV 04 | 04 FEB 2025

DRN: LS-LMD-MLTPL-MEM-25-03-020082

MEMORANDUM FOR THE SECRETARY

THROUGH : ATTY. HURJAE S. LUBAG, Rpm
Head Executive Assistant

**FROM : THE ASSISTANT SECRETARY FOR GENERAL
ADMINISTRATION AND SUPPORT SERVICES GROUP
AND CONCURRENT OFFICER IN CHARGE, LEGAL
SERVICE**

**SUBJECT : LEGAL OPINION RE THE RESIGNATION OF SOME
APPOINTED SENIOR CITIZENS FROM THEIR BRGY IN
ORDER NOT TO BE DELISTED FROM THE MASTERLIST
OF SOCPEN OF THE DSWD IN AKLAN**

DATE : 14 APRIL 2025

This pertains to the handwritten note (HWN) on the Routing and Tracking Slip (RTS) dated 05 March 2025 that was referred to the Legal Service (LS) for appropriate action. The HWN states:

For your information and appropriate action, please. Considering the conflicting opinions between DSWD (2020) and DILG (2025), should we refer this to DOJ?

Attached to the RTS is the Letter¹ dated 03 March 2025 from the Department of the Interior and Local Government (DILG) addressed to Secretary Rex Gatchalian.

DILG Asec. Romeo P. Benitez ('DILG') referred the letter of one Mrs. Gloria Alfeche² who sought DILG's legal opinion regarding the resignation of some appointed senior citizens from their barangays in order not to be delisted from the master list of Social Pensioners of the DSWD in Aklan. It was mentioned in the letter that in the meeting regarding the updates on social pension last 15 February 2024, the focal person for the social pension requested the barangay officials to identify the senior citizens who are elected and appointed to barangay offices, including those who are barangay tanods, members of the Lupong Tagapamaya, barangay health workers, Barangay Day Care Workers, and others, for they will be delisted from the program due to the monthly honoraria that they are receiving from their respective barangays. Mrs. Alfeche also said that the focal person mentioned that those who will retain their position in the barangay shall be delisted from the pension program while those who shall resign will be retained in the list. The barangay officials resigned from their posts in order for their names to be retained in the list. It was then represented that according to Municipal Local Government Operation Officer (MLGOO) Cawaling, the members of the Lupong Tagapamayapa of Brgy. Ibao are volunteers and that the barangay has not allocated any amount for their honoraria. It was also mentioned that the bases for delisting the officials are the Memorandum dated 20 November 2020 and 15 February 2021.

¹ Annex "A" – Letter from the DILG dated 03 March 2025

² Referred by DILG Regional Office 6 Regional Director Juan Jovian E. Ingeniero



DILG in its letter noted that the query appears to be within the technical competence of this Department, hence, the request for legal opinion on *whether the honorarium received by appointed barangay officials constitute as regular income which shall warrant their removal from the list of beneficiaries of the Social Pension for Indigent Senior Citizens Program (SPISCP)*. Nonetheless, in its 03 March 2024 letter, DILG declared its position on the matter –that Senior Citizen barangay appointed officials should not be delisted from the master list of social pensioners since the honorarium, allowances, or other emoluments received by them do not constitute regular or permanent income. DILG referred to the following provisions as bases:

- a. Department of Budget and Management (DBM) Local Budget Circular (LBC) No. 63³ in relation to Section 393 of the Local Government Code of 1991 (LGC) provides that the **barangay tanods and members of Lupong Tagapamayapa** may be granted honorarium, to wit:

“3.1 Barangay tanods and members of the Lupong Tagapamayapa may be granted honorarium, allowances or other emoluments provided the total amount shall not exceed the minimum salary rate for SG-1.”

- b. Government Accounting and Auditing Manual (GAAM), the DILG defined honorarium as that remuneration given to a public official for services actually rendered.
- c. DSWD MC 04, s. 2019 defined permanent source of income as:

“**Permanent Source of Income** – refers to the financial remuneration received on a monthly basis by the senior citizen from any business ventures such as but not limited to income from rentals, investments and other productive activities.

In conclusion, the DILG clarified that while the LGC of 1991 entitles the barangay officials to honoraria, the same is still contingent upon the passage of law or ordinance.

DSWD Memoranda dated 20 November 2020 and 15 February 2021

Then Officer-in-Charge of Legal Service, DSWD, Atty. Sittie Raifah M. Pamaloy-Hassan, in a Memorandum dated 20 November 2020, opined that barangay officials receiving honoraria from their respective barangays should be delisted as beneficiaries of the SPISCP as they fall outside the criteria set by law that the elderly entitled to receive social pension should have no permanent source of income. It was also opined that before delisting, it would be prudent to advise the concerned DSWD FO to conduct further assessment to determine if these barangay officials have regular income or receive financial support from family or relatives, etc. based on the guidelines.

As a result, then Program Management Bureau Director, Wilma D. Naviamos, issued the 15 February 2021 Memorandum disseminating the above-mentioned legal opinion from DSWD LS, and directed that “the barangay officials receiving honoraria as a regular income from their respective barangays should be delisted as beneficiaries of the SPISCP as they fall outside the criteria set by law that the elderly entitled to receive social pension should have no permanent source of income. The delisted senior

³ Guidelines on the Grant of Honoraria in the Local Government Units, 29 July 1996

citizens who are receiving social pension previously may be provided with other forms of assistance, subject to assessment of the social worker."

Let it be noted that the 03 March 2025 DILG letter is not an official DILG Opinion, rather, it is a query referring the request from Mrs. Alfeche on the ground that DSWD is the agency having the mandate and competence to rule on the matter at hand. DILG merely raised its position, albeit unofficially.

Our Opinion

We are of the considered view that senior citizens who are appointed as barangay officials and receiving honoraria should be delisted from the pension program.

I. Concept of Honoraria

Department of Budget and Management (DBM) Local Budget Circular No. 62, s. 1996⁴ defined *honoraria* as:

2.1. Honoraria is a form of compensation paid to a government official or employee for services rendered in addition to, but nevertheless form part of, his regular duties and responsibilities.

Also, under DBM Local Budget Circular No. 63 (DBM LBC No. 63) in relation to Sec. 393 of LGC of 1991, the grant of honorarium is based principally on the services actually rendered, per DILG Opinion No. 62, series of 2024, citing 4, series of 2017, and we quote:

"It bears to note that under DBM Local Budget Circular No. 63, in relation to Section 393 of the Local Government Code, Sangguniang Barangay Members are paid in the form of honorarium. Corollary thereto, the Government Accounting and Auditing Manual defines **honorarium as the remuneration given to public official for services actually rendered**. Hence, the grant of honorarium is based principally on services actually rendered by the claimant thereof."

Moreover, Section 393 Republic Act No. 7610 or the Local Government Code (LGC) of 1991 mandates that barangay officials, including barangay tanods and members of the lupong tagapamayapa, shall be compensated in the form of honorarium, *to wit*:

SECTION 393. Benefits of Barangay Officials. –

- (a) Barangay officials, including barangay tanods and members of the lupong tagapamayapa, **shall receive honoraria**, allowances, and such other emoluments as may be authorized by law or barangay, municipal or city ordinance in accordance with the provisions of this Code, but in no case shall it be less than One thousand pesos (P1,000.00) **per month** for the punong barangay and Six hundred pesos (P600.00) per month for the sangguniang barangay members, barangay treasurer, and barangay secretary: Provided, however, That the annual appropriations for personal services shall be subject to the budgetary limitations prescribed under Title Five, Book II of this Code"

⁴ Guidelines on the Grant of Honoraria in the Local Government Units

It is noteworthy that the above-mentioned provision of the LGC used the word "shall". A plethora of Supreme Court decisions establish that the word "shall" implies a mandatory nature. It indicates a command that must be interpreted as compulsory. In the above provision of the LGC, the giving of honoraria is mandatory, specifically, it should be given on a monthly basis.

As to the statement that the concept of honoraria with respect to barangay tanods and volunteers is contingent on the provision of the law or ordinance, this Department finds that the phrase "*as may be authorized by law or barangay, municipal, or city ordinance*" refers to additional benefits or emoluments (and the amounts thereof) that the law or local ordinance may authorize other than honoraria and allowances, which have already been mentioned in Section 393 of the Code. Moreover, while it may be argued that barangay tanods and members of the lupong tagapamayapa are not barangay officials per se, however, the aforementioned provision of the LGC included them to mandatorily receive honoraria, albeit the amount of which will depend on the ordinance.

Based on the foregoing, it is clear that honorarium is a form of compensation or remuneration for services rendered. In view of the mandatory directive under Section 393 of the LGC, barangay officials, including barangay tanods and members of the lupong tagapamayapa, must be paid in the form of honorarium for services rendered.

Grant of honoraria to specified barangay workers

Aside from the grant of honoraria to barangay officials and lupong tagapamayapa under Section 393 of the LGC 1991, the DILG MC No. 2024-086⁵ provides for the honoraria to be received by the Barangay Tanod, to wit:

"5.6 Benefits

5.6.1 All duly appointed members of the Barangay Tanod **shall be** granted honoraria/allowances, insurance, or other benefits stated under Section 393 of the Local Government Code of 1991, during their incumbency.

Based on the aforementioned provisions, the law clearly mandates that barangay officials, barangay tanod, and lupong tagapamayapa shall receive honoraria.

II. Social Pension for Indigent Senior Citizens

To understand the entitlement of senior citizens to social pension, we refer to Section 5 (h) (1) of the Social Pension for Indigent Senior Citizens Program (SPISCP) under RA No. 9994 otherwise known as the "Expanded Senior Citizens Act of 2010" as amended by RA No. 11916, which provides:

(h) Additional Government Assistance

(1) Mandatory Social Pension

Indigent senior citizens shall be entitled to a monthly stipend amounting to not less than One thousand pesos (P1,000.00) to augment the daily subsistence and other medical needs of senior citizens.

⁶ Omnibus Policy on the Administration and Strengthening Capacities of Barangay Tanods as Agents of Peace and Development

Section 3(h) of the same law defines "indigent senior citizens" as referring to "[...] any elderly who is frail, sickly, or with disability, and **without pension or permanent source of income, compensation or financial assistance from his/her relatives to support his/her basic needs**, as determined by the Department of Social Welfare and Development (DSWD) in consultation with the National Coordinating and Monitoring Board."

Intent of the Social Pension Program

In the initial implementation of this program, the DSWD issued Administrative Order No. 15 in 2010 (AO 2010-15) to provide guidelines for the said program. In the said guidelines, it was explained that with the passage of RA No. 9994, it "institutionalized social protection by providing monthly stipend to indigent senior citizens" and that **"it is designed in such a way that the poorest senior citizens are covered and protected from loss of income and unemployment as a result of illness, injury, disability, harvest failure, etc."** It also provides for the intent or objective behind the program, which is to **"to protect the most vulnerable sector** through social protection, and for the full implementation of the Republic Act No. 9994." In describing the program, DSWD MC No. 6, s 2024 explicitly provides that social pension **"is in line with the government's commitment to the most disadvantaged sector** through social protection, as well as with the full implementation of R.A. No. 9994, also known as the Expanded Senior Citizens Act.

In view of the foregoing, it is clear that the program was designed for the protection and assistance of the poorest senior citizens.

Entitlement to Social Pension under SPISCP

DSWD Memorandum Circular No. 6, series of 2025⁶ enumerated the eligibility criteria for the availment of social pension:

- 1.1. Must be 60 years old and above;
- 1.2. Frail, sickly, or with disability; and
- 1.3. Without pension from Social Security System (SSS), Government Service Insurance System (GSIS), Philippine Veterans Affairs Office (PVAO), **or a regular source of income, compensation**, or financial assistance from the relatives to support his/her basic needs.

Based on the foregoing, it is essential that a senior citizen who does not receive any compensation qualifies as a beneficiary.

III. Honoraria as compensation

The receipt, therefore, of honoraria by the appointed barangay officials as compensation for the services they render means that they have a steady source of income, **regardless of its regularity or frequency**. Moreover, one of the criteria set by law state that there must be without compensation. The guidelines as to the eligibility focused not on the actual receipt of the income but on the source thereof, stating that there must be a complete absence of any source of income regardless of the regularity or frequency of the receipt of such income, compensation, or

⁶ Amendment to M.C. No. 6, S. 2024 otherwise known as the "Enhanced Omnibus Guidelines in the Program Implementation of the Social Pension for Indigent Senior Citizens"

remuneration. The fact that the LGC and other relevant issuances mandate that barangay officials, including barangay tanods, members of the lupong tagapamayapa, as well as other barangay officials, shall receive honoraria in lieu of their salary means that they have at least an expected source from which they shall receive an actual income or compensation for their daily sustenance.

Conclusion

In view of the above discussion, we opine that the honoraria received by appointed barangay officials is a form of compensation for services rendered, regardless of its frequency or regularity. The honoraria as compensation to barangay officials is mandatory, given by the plain language of Section 393 of the LGC. The receipt by a senior citizen barangay official of honoraria for services rendered renders them ineligible to remain in the SPISCP. Consequently, after due assessment of the DSWD Social Pension focal, they should be delisted from the list of social pension beneficiaries as they failed to satisfy one condition, that is "without pension, or a regular source of income, compensation, or financial assistance from the relatives to support his/her basic needs". To be eligible as beneficiaries, therefore, barangay officials or volunteers must provide proof or any form of certification that they are not receiving honoraria.

In response to the query of DSWD Head Executive Assistant, Atty. Hurjae Lubag, we are of the opinion that there is no need to refer the matter to the Department of Justice (DOJ) since the law and DSWD policies are clear on who are entitled to social pension, that is, those who do not receive any form of compensation or remuneration.

Lastly, attached is the draft letter addressed to DILG Assistant Secretary Romeo Benitez in response to his request for a legal opinion regarding the issue.

For your consideration.

Thank you.



ATTY. GINA V. WENCESLAO

RRAAO/MCMUG/JIP/ALC/10065
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Recommending Approval:


ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary for GASSG

Approved/Disapproved


REX GATCHALIAN
Secretary
02 MAY 2025
PAGE 6 of 6

LS-LMD-MLTPL-MEM-25-03-020082; LEGAL OPINION RE THE RESIGNATION OF SOME APPOINTED SENIOR CITIZENS FROM THEIR BRGY IN ORDER NOT TO BE DELISTED FROM THE MASTERLIST OF SOCPEN OF THE DSWD IN AKLAN

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