

**MANAGBANAG, Sharon Grace P.**

Re: Maternity Leave Benefits; Solo Parents  
Welfare Act of 2000; Query

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### RESOLUTION NO. 021283

Sharon Grace P. Managbanag, Sr. Economic Development Specialist, National Economic and Development Authority (NEDA), requests clarification regarding the application of the Solo Parents' Welfare Act of 2000.

Her query reads, as follows:

*" . . . I gave birth to my son last May 3, 2002 but have decided against marrying my child's father due to psychological incapacity on his part. This in effect makes me a single parent.*

*"I am therefore seeking clarification as to whether or not I am entitled to maternity benefits as provided for in the Solo Parents' Welfare Act of 2000 or RA 8972. However, according to a staff member of the personnel services division of our Administrative Staff, the Solo Parents' Act is subject to existing laws, which means that a female employee can only avail of such benefits ONLY if she is married."*

Applicable to the instant query are Section 3, paragraph a (8) and paragraph d and Section 8 of Republic Act No. 8972<sup>1</sup> which provide, thus:

*"SECTION 3. Definition of Terms. - Whenever used in this Act, the following terms shall mean as follows:*

*"(a) `Solo parent' - any individual who falls under any of the following categories:*

X X X

*`(8) Unmarried mother/father who has preferred to keep and rear her/his child/children instead of having others care for them or give them up to a welfare institution.*

*"(d) `Parental leave' - shall mean leave benefits granted to a solo parent to enable him/her to perform parental duties and responsibilities where physical presence is required.*

*"SECTION 8. Parental Leave. - In addition to leave privileges under existing laws, parental leave of not more than seven (7) working days every year shall be granted to any solo parent employees who has rendered service of at least one (1) year."*

Republic Act 8972 was enacted to provide a solo parent the opportunity to take care of his/her child and to develop a bonding between the child and his/her biological parent. Thus, aside from the other benefits granted by said law<sup>2</sup>, solo parents are given parental leave of seven (7) working days every year, provided he/she has rendered service for at least one (1) year. On the other hand, the Act does not expressly grant maternity leave benefits to solo parents. It merely cited leave privileges under existing laws which includes Section 11, Rule XVI of CSC Memorandum Circular No. 41, s. 1998 (as amended). Said section grants maternity leave benefits to female employees, thus:

*"SEC. 11. Conditions for the grant of maternity leave. - Married women in the government service who have rendered an aggregate of two (2) or more years of service, shall, in addition to the vacation and sick leave granted them, be entitled to 60-days maternity leave with full pay."*

x x x"

It is to be noted that the purpose of maternity leave is to allow the mother to recuperate and to take care of her child during the infancy stage since it is at this time when the child requires attention<sup>3</sup>.

Under these circumstances, is Managbanag entitled to avail of maternity leave since the aforementioned provision require that she must be married? In a recent decision of almost similar nature, the Commission ruled in this wise, thus:

*"Going by its literal language, the above-quoted provision confines or restricts the grant of maternity leave benefits to a female employee, who is married and is about to deliver or has just delivered a baby. Strictly speaking therefore, Mendoza, not being married at the time of her child-birth, should be ineligible from availing the same, inasmuch as her marriage was judicially dissolved in 1997, and the delivery came in 2000."*

*"But there are certain factors that persuade the Commission, insofar as the peculiar facts of this particular case, from readily adopting such a view. As a matter of fact, it is convinced that to relax the rule on the grant of maternity leave benefits with respect to Mendoza would better conduce to the interests of all concerned. Moreover, recent trends in family laws support such a liberal treatment."*

*"The grant of maternity leave benefits partakes the nature of a social measure or legislation. Being a social legislation, it is the welfare or well-being of the intended recipients or beneficiaries – the working mothers in the employ of the government – that is of primordial concern. Thus, whenever so dictated by the attendant facts and circumstances, the rule on maternity leave benefits may be adjusted depending on the peculiarities of"*

each case. Ultimately, a law or rule should not be so rigid and inflexible as to be immune and resistant to any adaptation or change. For when such law or rule loses its ability to cope with actual exigencies or realities, it loses its force and relevance, and it becomes useless as an instrument of public order and stability.

"In the present case, given the surrounding factual milieu, the better rule is to warrant Mendoza her entitlement of maternity leave benefits. While she is not married at the time of her delivery in the sense that the matrimonial union binding her and the father of her baby had been dissolved earlier, no material prejudice or substantial detriment would be caused to the public interest were she be permitted to claim such benefits . . .

"More importantly, Mendoza's bid may be founded on the provisions of Republic Act (RA) No. 8972 or the so-called Solo Parent's Act. In brief, RA No. 8972 extends certain rights and privileges to solo parents in due recognition of their sacrifices in single-handedly raising their children to become disciplined and productive members of society. . .

X X X

"That being said, what then are the rights and privileges to which she can properly lay claim?

"The Solo Parent's Act does not explicitly contemplate the grant of maternity leave benefits to solo parents. In terms of leave privileges, what it extends is a seven-day paternity leave. This fact notwithstanding, the Commission, in the exercise of its rulemaking powers, deems that the laudable purpose and intent of the law may be better subserved if the same entitlement, i.e., maternity leave, be extended to solo parents. The spirit of the law is to remove the social stigma that has attached to individuals who decide to have a child or children of their own without the benefit of marriage. What better way to achieve or attain this noble purpose than by equalizing their status with that of their married counterparts. " (Underlining supplied)

Without doubt, by reason of justice and equity, solo parents, whether married or unmarried, are now entitled to maternity leave benefits. Since upon verification it was revealed that Managbanag had been in the service for more than two (2) years, she is also entitled to the same.

**WHEREFORE**, the Commission hereby rules that Sharon Grace P. Managbanag is entitled to maternity leave benefits of 60 days with pay and to parental leave benefits of seven (7) working days.

Quezon City, OCT 08 2002

(Signed)

**KARINA CONSTANTINO-DAVID**  
Chairman

(Signed)  
**JOSE F. ERESTAIN, JR.**  
Commissioner

(Signed)  
**J. WALDEMAR V. VALMORES**  
Commissioner

Attested by:

(Signed)  
**ARIEL G. RONQUILLO**  
Director III

*FPG/RTM/X4/Y6(J)*  
*O-02-0307*  
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<sup>1</sup> An Act Providing for Benefits and Privileges to Solo Parents and their Children, Appropriating Funds Therefor and For Other Purposes

<sup>2</sup> "Section 5. Comprehensive Package of Social Development and Welfare Services. - x x x The DSWD shall coordinate with concerned agencies the implementation of the comprehensive package of social development and welfare services for solo parents and their families. The package will initially include:

"(a) Livelihood development services which include trainings on livelihood skills, basic business management, value orientation and the provision of seed capital or job placement.

"(b) Counseling services which include individual, peer group or family counseling. This focus on the resolution of personal relationship and role conflicts.

"(c) Parental effectiveness services which include the provision and expansion of knowledge and skills of the solo parent on early childhood development behavior management, health care, rights and duties of parents and children.

"(d) Critical incidence stress debriefing which includes preventive stress management strategy designed to assist solo parents in coping with crisis situations and case of abuse.

"(e) Special projects for individuals in need of protection which include temporary shelter, counseling, legal assistance, medical care, self-concept or ego-building, crisis management and spiritual enrichment.

"Section 6. Flexible Work Schedule. - The employer shall provide for a flexible working schedule for solo parents: Provided, That the same shall not affect individual and company productivity: Provided, further, That any employer may request exemption from the above requirements from the DOLE on certain meritorious grounds.

"Section 7. Work Discrimination. - No employer shall discriminate against any solo parent employee with respect to terms and conditions of employment on account of his/her status.

"Section 9. Educational Benefits. - The DECS, CHED and TESDA shall provide the following benefits and privileges:

"(1) Scholarship programs for qualified solo parents and their children in institutions of basic, tertiary and technical/skills education; and

"(2) Nonformal education programs appropriate for solo parents and their children.

"The DECS, CHED and TESDA shall promulgate rules and regulations for the proper implementation of this program.

"Section 10. Housing Benefits. - Solo parents shall be given allocation in housing projects and shall be provided with liberal terms of payment on said government low-cost housing projects in accordance with housing law provisions prioritizing applicants below poverty line as declared by the NEDA.

"Section 11. Medical Assistance. - The DOH shall develop a comprehensive health care program for solo parents and their children. The program shall be implemented by the DOH through their retained hospitals and medical centers and the local government units (LHUs) through their provincial/district/city/municipal hospitals and rural health units (RHUs)."

<sup>3</sup> CSC Resolution No. 02-0576 dated April 18, 2002