



FLORENCIO A. LIPAWEN, SR.,
Appellant,

-versus-

ECC CASE No. SM 19528-0824-16

SOCIAL SECURITY SYSTEM (SSS),
Appellee.

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DECISION

This appeal seeks to review the decision of the Social Security System (SSS)-Medical Claims Review Committee (MedRC), dated July 14, 2016, denying appellant's claim for EC disability benefits, under the Employees' Compensation Law (P.D. No. 626, as amended), for his Hypertension with left Ventricular Hypertrophy; Noise Induced Hearing Loss, profound, right, severe to profound, left; Old compression deformity, Cervical Spine and Degenerative Spondylosis C5 and C6 with Foraminal Stenosis C4-C5 and C6-C7.

From November 12, 1979, until his retirement on December 31, 2014, the appellant, Florencio A. Lipawen, Sr. (SSS No. 01-0462631-9), 59 years old at the time of the filing of the claim and a resident of Baguio City, successively held the following positions at the Philex Mining Corp., Tuba, Benguet:

Period of Employment	Position
November 11, 1979-September 20, 1986	Mine Bullgang
September 21, 1986-July 10, 1998	Miner Helper
July 11, 1998-December 31, 2014	Mechanic 1/C

Based on the Job Description, which was signed by Ms. Teresa Semeona F. Garcia, HR Officer in-Charge, Philex Mining Corp., the duties and responsibilities of the appellant as Mechanic 1/C has been described as follows:

General Functions:

The Cable Belt Conveyor Mechanic maintains troubleshoots, reconditions and installs conveying equipment/machineries and related accessories.

Duties and Responsibilities:

1. Checks the condition of conveying equipment, parts and accessories according to maintenance schedule and operating standards;
2. Troubleshoots, overhauls and reconditions conveying equipment and accessories;
3. Tests conveying equipment and its accessories according to accepted operating standards;
4. Installs and aligns all conveying equipment and accessories;
5. Specifies and requests materials, supplies, and equipment parts;
6. Splices cable rope and conveyor belt;
7. Performs minor welding and cutting jobs;
8. Performs minor repair works of CBC pumps;
9. Performs other related jobs of a conveyor mechanic in the conveyor system;
10. Renders daily report on work accomplishment;
11. Attends trainings and seminars as required;
12. Adheres to personnel policies, safety, health, environmental, security, cost reduction and productivity improvement programs of the company;
13. Ascertains strict implementation of the 3Rs (reduce, recycle, re-use);
14. Attends to pep talks, DSC and other meetings of the department;
15. Performs other related functions that may be assigned by superior.

Tools, Instruments and Equipment Handled:

Sledge, or ball pen hammer, pinch bars, pull lift, grease guns, apron feeders, conveyors, air hoist, water pump, compressor, splicing tools/kit, pullers, pneumatic air cylinder/control valve, welding machine and accessories, oxygen, acetylene cutting outfit and auto/mechanic hand tools, overhead crane.

On June 11, 2011, the appellant sustained a small fracture of the 7th rib when he met an accident at his work-place. It was advised by his attending physician that “vigorous physical labor and bearing heavy load may aggravate his condition.”

On October 11, 2014, the appellant sought consultation at the St. Louis University-Hospital of the Sacred Heart due to nape pain associated intermittent dizziness and tingling on the right upper extremity. He was diagnosed to have suffered from t/c (to consider) Cervical Radiculopathies, left upper extremity; Cervical Muscular Strain; Myofascial Pain Syndrome, both trapezius muscles. The appellant’s attending physician advised him to continue his physical therapy and to avoid positioning such as prolonged sitting and standing and to avoid pushing, pulling, and lifting of heavy loads.

On January 12, 2015, the appellant was admitted at the Notre Dame de Chartres Hospital, Baguio City, due to hearing loss, radiculopathy of the right arm and low-back pain. It was noted that he has elevated level of uric acid and cholesterol in his blood. On January 14, 2015, he was discharged from the said hospital with diagnosis of Hypertension with left Ventricular Hypertrophy; Noise Induced Hearing Loss, profound, right, severe to profound, left; Old compression deformity, Cervical Spine and Degenerative Spondylosis C5 and C6 with Foraminal Stenosis C4-C5 and C6-C7.

Records reveal that the appellant was granted with the following benefits under the SSS and EC law:

Nature of Illness	Type of SSS/EC Benefits Granted
Hypertension	SSS sickness (4 days) January 12-15, 2015
Hearing Loss	SSS/EC Permanent Partial Disability (PPD) benefits for eight months effective September 9, 2015

Records further reveal that the appellant was granted SSS retirement benefits effective January 1, 2015.

On March 3, 2016, the appellant wrote a letter to the SSS Baguio City Branch (Branch) requesting for the grant of additional EC disability benefits due to his ailments. Subsequently, the appellant underwent physical examination at the Branch which revealed normal findings except for his hearing difficulty. The Branch denied the request of the appellant due to the following reasons:

“Illnesses have no causal relationship to the nature of his work as there were no documents from employer to substantiate that illnesses are work-related.

“Physical examination findings and supporting medical documents do not show permanent impairment hence, does not warrant the granting of additional EC disability claim.

“Joint and back pains are degenerative in nature.”

On July 14, 2016, the SSS-Medical Claims Review Committee (MedCRC), through its Resolution No. 2016-0308, sustained the denial of the Branch.

On August 16, 2016, the Secretariat received the records of the case from the SSS for review purposes.

On September 14, 2016, this case was submitted to the Technical Review Committee (Committee) for initial deliberation. The Committee decided to elevate this case to the Commission with the following recommendations:

I. For Denial

Claimed Illness	Reason for Denial
Hypertension	No causal relationship; non-satisfaction of condition for compensability
Hearing Loss	No substantial evidence showing progression of hearing loss; maximum benefits commensurate to the degree of disability granted

II. For Award

Claimed Illness	Basis for Award
Old compression deformity, Cervical Spine and Degenerative Spondylosis C5 and C6 with Foraminal Stenosis C4-C5 and c6-c7; Degenerative Osteoarthritis of the right shoulder	The appellant’s working conditions, particularly, the repetitive faulty posture, use of vibratory tools, and lifting and carrying of heavy objects, increased the risk of contracting Musculoskeletal Disorder.

The appeal is partly meritorious.

Article 167 (l) of Presidential Decree (P.D.) No. 626, as amended, defines sickness as "any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof that the risk of contracting the same is increased by working conditions." Section 1 (b), Rule III, of the Rules Implementing P.D. No. 626, as amended, provides that "for the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease included under Annex "A" of these Rules (Amended Rules on Employees' Compensation) with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions."

Medical findings provide the etiology of the claimed ailments in this manner, to wit:

Claimed Illness	Etiology
Hypertension with left ventricular hypertrophy	<ul style="list-style-type: none">• Hereditary and environmental factors;• Essential or Primary Hypertension has no single identifiable cause. The persons most likely to develop essential hypertension are those with family history of hypertension.• Cigarette smoking, less physical activity, stress, excessively heavy weight, high salt intake, high caffeine intake, and use of oral contraceptive pill also contribute to the development of essential hypertension. The release of certain enzymes from the kidneys and diabetes mellitus may lead to high blood pressure.• Both genetic and hemodynamic factors contribute to left ventricular hypertrophy.• Individuals with left ventricular hypertrophy are at increased risk for Cardiovascular Heart Disease, Stroke, Chronic Heart Failure, and sudden death. <p><i>References:</i> <i>Robbins Pathologic Basis of Disease, 6th edition, pp. 510-514;</i> <i>Seventh Report of the Joint National Committee on Prevention, Detection, Evaluation and treatment of High Blood Pressure (JNC 7);</i> <i>Harrison's Principles of Internal Medicine, 17th Edition, Chapter 241. Hypertensive Vascular Disease</i></p>
Hearing Loss	<ul style="list-style-type: none">• Middle-ear infections, viruses (mumps, chickenpox, measles, influenza, herpes zoster and adenoviruses), Meningitis, and Syphilis.

Claimed Illness	Etiology
	<ul style="list-style-type: none">• Acoustic or physical traumatic working conditions which include excessive noise such as explosive blast, lacerations, motor vehicle accidents, blunt head trauma, falls, burns from caustic chemicals, open flames or welder’s slag that enter the ear canal, frostbite, hematoma, and barotrauma due to diving and flying. <p>References:</p> <ol style="list-style-type: none">1. <i>Harrison’s Principles of Internal Medicine, 14th Edition, Companion Handbook, page 1062;</i>2. <i>Boie’s Fundamentals of Otolaryngology, 6th Edition, pp. 46-47, 86-87, 90-91, 94-95, 123-124, 131-132</i>
Musculoskeletal Disorders	<ul style="list-style-type: none">• Refers to traumatic and non-traumatic inflammatory, degenerative and acquired conditions affecting muscle, tendons, ligaments, joints, peripheral nerves and blood vessels arising in the performance of assigned task;• Exposure to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyperextended posture or performing other manual handling tasks such as pushing or pulling;• Age related or degenerative changes <p>Reference: Board Resolution No. 13-11-36 dated November 29, 2013</p>

Non-compensability of the appellant’s Hypertension

Under Annex “A” of the Amended Rules of P.D. No. 626, as amended, Hypertension classified as primary or essential is considered compensable under the following conditions

29. “ESSENTIAL HYPERTENSION

“Hypertension classified as primary or essential is considered compensable if it causes impairment of the function of body organs like the kidneys, eyes and brain, resulting in any kind of disability, **subject to the submission of any of the following:**

- “Chest X-ray report
- “Electrocardiograph (ECG) report
- “Blood Chemistry report
- “Fundoscopy report
- “Ophthalmologic evaluation
- “Computed tomography scan (C-T scan
- “Magnetic resonance imaging (MRI)
- “Magnetic resonance angiography (MRA)
- “Two dimensional echocardiography (2-D Echo)
- “Kidney ultrasound
- “BP monitoring report

It was noted that the appellant has elevated level of cholesterol in his blood. Medical findings have already established that the said factor can cause the manifestation of Hypertension. Thus, the appellant should have provided evidence of a reasonable connection between his working conditions and his Hypertension or that the progression of the same was brought about largely by the working conditions in his previous occupation. Failing in this aspect, this Commission is constrained to rule that the appellant's Hypertension is not compensable.

No substantial evidence showing progression of the appellant's Hearing Loss; Maximum benefits commensurate to the degree of disability have already been granted

There is no dispute that the appellant's Hearing Loss has already been considered as work-connected by the SSS. Thus, the only issue to be resolved is whether or not he is entitled to additional EC disability benefits.

Records reveal that during the last physical examination of the appellant, the SSS noted that there is no substantial evidence showing progression of the appellant's Hearing Loss. Without prejudice to the results of the succeeding Audiometry examinations that may be undertaken by the appellant, this Commission holds that no error was committed by the SSS in maintaining its previous award to the appellant of EC PPD benefits for eight months.

Compensability of the appellant's Musculoskeletal Disorder; Age coupled with age-affected work activity may lead to compensability

In denying the EC claim of the appellant due to Musculoskeletal Disorders, the SSS states that the same are degenerative in nature. In effect, the SSS denied the claim on the ground that the Musculoskeletal Disorders of the appellant are age-related in nature which, in turn, has no connection to his occupation. It would be more prudent had the SSS considered the nature of the occupation of the appellant in relation to his advancing age.

In the case of *GSIS v. Aurelia Calumpiano* (G.R. No. 196102, November 26, 2014 citing the case of *GSIS v. Salvador A. De Castro*, G.R. No. 185035, July 15, 2009), the Supreme Court elucidates the age factor in relation to the particular occupation of the worker in this manner, to wit:

- “While age and gender are characteristics inherent in the person (and thereby may be considered non-work related factors), they also do affect a worker's job performance xxx To cite an example, some workplace activities are appropriate only for the young (such as the **lifting of heavy objects** although these may simply be office files), and **when repeatedly undertaken by older workers, may lead to ailments and disability.** Thus, **age coupled with an age-affected work activity may lead to compensability...**

- “In any determination of compensability, **the nature and characteristics of the job are as important as raw medical findings and a claimant’s personal and social history.** This is a **basic legal reality in workers’ compensation law...**” (emphasis supplied)

In this case, the appellant was employed as Cable Belt Conveyor Mechanic from July 1998 until December 2014. For sixteen (16) years, he was required to maintain, to conduct troubleshooting, to re-condition and to install conveying equipment/machineries and related accessories. In performing his duties, the appellant had utilized the following mechanical tools, instruments, and equipment:

1. Sledge, or ball pen hammer;
2. Pinch bars;
3. Pull lift;
4. Grease guns;
5. Apron feeders;
6. Conveyors;
7. Air hoist;
8. Water pump;
9. Compressor;
10. Splicing;
11. Tools/kit;
12. Pullers;
13. Pneumatic air cylinder/control valve;
14. Welding machine and accessories;
15. Oxygen, acetylene cutting outfit; and
16. Auto/mechanic hand tools, overhead crane.

The working conditions of the appellant as Cable Belt Conveyor Mechanic involved tiresome manual labor which could cause trauma or strain on his musculoskeletal system. It may not be too difficult to conceive that repetitive handling of various mechanical tools, instruments and equipment may lead to vibration, strains, and sprain. Considering further that the appellant is already in his advancing age, the monotonous handling of mechanical tools, instruments, and equipment may have caused the manifestation of his work-related musculoskeletal injuries and/or disorders.

In granting EC disability benefits in this case, this Commission believes that the working conditions of the appellant have satisfied the following conditions for compensability of Musculoskeletal Disorders:

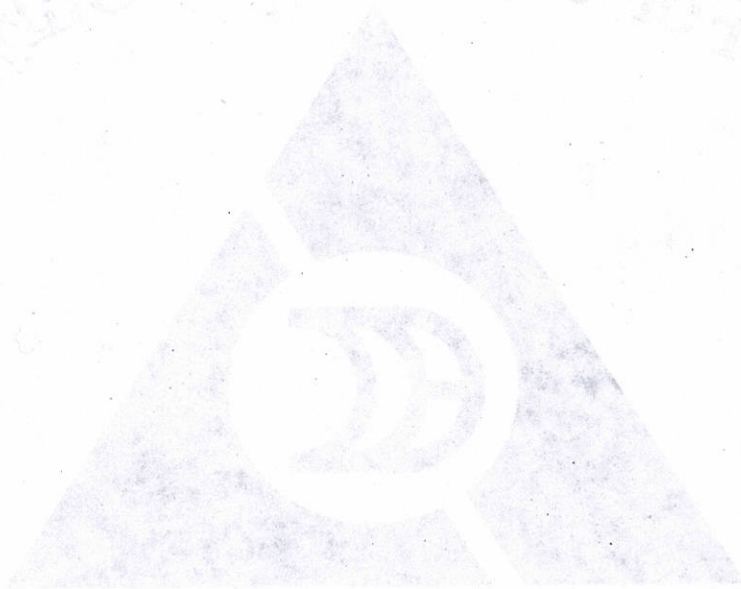
“Exposure to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyperextended posture or performing other manual handling tasks such as pushing or pulling.”

WHEREFORE, the appealed decision is hereby **MODIFIED** and the SSS is ordered to **grant EC disability benefits** to herein appellant plus reimbursement of medical expenses for his succeeding consultations due to **Musculoskeletal Disorders** subject to the limitations prescribed by the Commission. However, the claim for EC disability benefits due to **Hypertension** is hereby **DENIED** on the ground of no causal relationship.

On the basis of the results of his last physical examination, the appellant's claim for additional EC disability benefits due to **Hearing Loss** is **DENIED** but without prejudice to re-filing of the same. The granting of additional EC disability benefits due to Hearing Loss would depend on the results of the succeeding Audiometry examination that may be undertaken by the appellant showing progression of the said illness.

SO ORDERED.

**CITY OF MAKATI,
September 19, 2016.**





BOARD RESOLUTION NO. 16-09-36

Approving the Recommendations of the Technical Review Committee (TRC) on Two (2) EC Appealed Cases from the GSIS and Three (3) EC Appealed Cases from the SSS

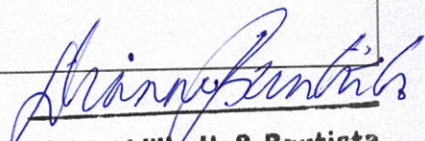
WHEREAS, Article 180 of P.D. No. 626, as amended, partly provides:

"ART. 180. Settlement of Claims.- The System shall have original and exclusive jurisdiction to settle any dispute arising from this Title with respect to coverage, entitlement to benefits, collection and payment of contributions and penalties thereon, or any other matter related thereto, subject to appeal to the Commission..." (emphasis supplied)

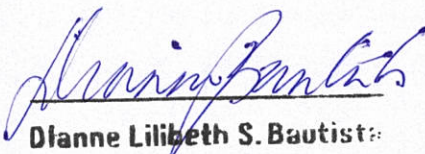
WHEREAS, on Sept. 7 and 14, 2016, the Technical Review Committee (TRC) has deliberated on the following EC appealed cases from the GSIS and the SSS. The recommendations of the TRC are as follows:

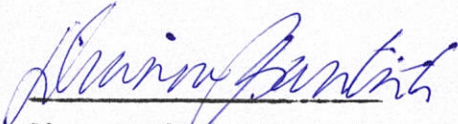
I. GSIS

<i>Title of the Case/Nature of Appeal</i>	<i>TRC Recommendation</i>
I.1. Marvin C. Guadiana vs. GSIS (GM-19531-0905-16) Nature of Claim: <i>EC disability benefits due to Glioma</i> Occupation: <i>Soldier (Pfc.-Phil. Army)</i>	For Denial Reason for Denial: <i>No causal relationship</i>
I.2. Mamerta T. Ursolino vs. GSIS (GM-19523-0726-16) Nature of Claim: <i>EC disability benefits due to Acute CVA, thrombosis of cerebral artery, LMCA; HPN; DM, type 2</i> Occupation of the Covered Member: <i>Municipal Budget Officer, Municipal Government of Alabat, Quezon</i>	For Denial Reason for Denial: <i>No causal relationship</i> CERTIFIED TRUE COPY


Dianne Lilibeth S. Bautista
Board Secretary III

II. SSS

<i>Title of the Case/Nature of Appeal</i>	<i>TRC Recommendation</i>
<p>II.1. Florencio A. Lipawen, Sr. vs. SSS (SM-19528-0824-16)</p> <p>Nature of Claim: <i>EC disability benefits due to Hypertension with left ventricular hypertrophy; Noise-Induced Hearing Loss, profound, right, severe to profound, left; Old compression deformity, Cervical spine and Degenerative Spondylosis C5 and C6 with Foraminal Stenosis C4-C5 and C6-C7; Degenerative Osteoarthritis of the right shoulder</i></p> <p>Occupation/Position: <i>Mine Bullgang; Mine Helper; Mechanic 1/C, Philex Mining Corp.</i></p> <p>CERTIFIED TRUE COPY</p> <p> Dianne Lilibeth S. Bautista: Board Secretary III</p>	<p>For Modification</p> <p>For Award:</p> <p><i>Old compression deformity, Cervical spine and Degenerative Spondylosis C5 and C6 with Foraminal Stenosis C4-C5 and C6-C7; Degenerative Osteoarthritis of the right shoulder</i></p> <p>Basis for Award:</p> <p>The appellant's working conditions, particularly the repetitive faulty posture, use of vibratory tools, and lifting and carrying of heavy objects, increased the risk of contracting Musculoskeletal Disorder.</p> <p>For Denial:</p> <p><i>Hypertension with left ventricular hypertrophy; Noise-Induced Hearing Loss, profound, right, severe to profound, left</i></p> <p>Reasons for Denial:</p> <p>a. Hypertension- no causal relationship; non-satisfaction of conditions for compensability;</p> <p>b. Hearing loss- no substantial evidence showing progression of hearing loss</p>

Title of the Case/Nature of Appeal	TRC Recommendation
<p data-bbox="313 309 667 379">II. 2. Elpidio C. Abat vs. SSS (SM-19529-0824-16)</p> <p data-bbox="313 413 967 653">Nature of Claim: <i>EC disability benefits due to Hypertension, stage II; Aspiration Pneumonia; Alcoholic Liver Disease; Wernicke Korsakov Syndrome; Degenerative Cervical Spondylosis; Degenerative Lumbar Spondylosis; Noise-Induced Hearing Loss; Upper Gastrointestinal bleeding secondary to Peptic Ulcer</i></p> <p data-bbox="313 723 902 822">Occupation/Position: <i>Maintenance Laborer –Special Services Dept., St. Louis University, Baguio City</i></p> <p data-bbox="521 1706 850 1739">CERTIFIED TRUE COPY</p> <p data-bbox="483 1784 938 1970"> Dianne Lilibeth S. Bautista Board Secretary III</p>	<p data-bbox="1073 301 1292 333">For Modification</p> <p data-bbox="997 370 1343 505">For Award: <i>Noise-Induced Hearing Loss; Cervical and Lumbar Spondylosis</i></p> <p data-bbox="1044 542 1377 951">Basis for Award: a. Noise-Induced Hearing Loss- Frequent exposure to high-intensity noise; satisfaction of condition for compensability of Hearing Loss b. Cervical and Lumbar Spondylosis-</p> <p data-bbox="1003 986 1382 1255">The appellant's working conditions, particularly the repetitive faulty posture, use of vibratory tools, and lifting and carrying of heavy objects, increased the risk of contracting Musculoskeletal Disorder.</p> <p data-bbox="1003 1292 1382 1561">For Denial: <i>Hypertension, stage II; Aspiration Pneumonia; Alcoholic Liver Disease; Wernicke Korsakov Syndrome; Upper Gastrointestinal Bleeding secondary to Peptic Ulcer</i></p> <p data-bbox="1055 1596 1317 1798">Reasons for Denial: No causal relationship; non-satisfaction of conditions for compensability;</p>

<i>Title of the Case/Nature of Appeal</i>	<i>TRC Recommendation</i>
<p>II.3. Genaro D. Gapuz vs. SSS (SM-19530-0824-16)</p> <p>Nature of Claim: <i>EC disability benefits due to Sensorineural Hearing Loss, bilateral, mild; Hypertension with left ventricular hypertrophy; Coronary Artery Disease; Atrophic Gastritis, Erythematous Gastritis, Esophagitis, H. Pylori Positive; Multiple Gastric Polyp Sessile Type; Degenerative Spondylosis; Inguinal Hernia</i></p> <p>Occupation of the Covered Member: <i>Carpenter; Fixed Asset in-Charge</i></p>	<p>For Denial</p> <p>Reason for Denial:</p> <p><i>No causal relationship; No employer-employee relationship</i></p>

WHEREAS, considering that this Commission is mandated to resolved EC appealed cases within the period of 20 working days, the abovementioned EC appealed cases are deemed resolved on the date of start of routing, or on September 19, 2016, by the Secretariat of this Resolution to the other members of the Commission for purposes of compliance with the prescribed 20 working day PCT;

ON THE BASIS OF THE CONCURRENCE OF THE MEMBERS OF THE COMMISSION

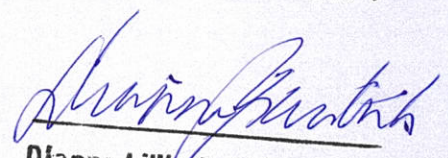
This Commission **RESOLVES AS IT HEREBY RESOLVED** that the recommendations of the TRC in the abovementioned cases be approved:

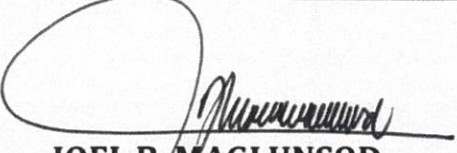
RESOLVED FURTHER, that the entire original records of the cases of **Florencio A. Lipawen, Sr. vs. SSS** (SM-19528-0824-16) and **Elpidio C. Abat vs. SSS** (SM-19529-0824-16) be transmitted to the SSS for enforcement of Decisions of this Commission granting EC benefits to the concerned claimants within 15 days upon receipt of Notices of Decisions

RESOLVED FINALLY, that copy of this Resolution and Decisions on the abovementioned cases be duly furnished to the GSIS and to the SSS for guidance and/or compliance.

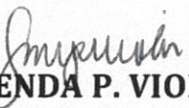
APPROVED, in Makati City, 19 September 2016.

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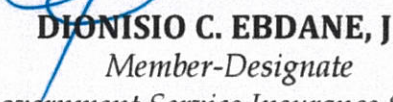

Dianne Lilibeth S. Bautista
 Board Secretary III



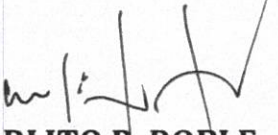
JOEL B. MAGLUNSOD
Chairperson-Designate
Department of Labor and Employment



BRENDA P. VIOLA
Member-Designate
Social Security System



DIONISIO C. EBDANE, JR.
Member-Designate
Government Service Insurance System



CARLITO P. ROBLE
Member
Employees' Sector

ABSENT

PAULYN JEAN ROSELL UBIAL
Member
Philippine Health Insurance Corporation



STELLA ZIPAGAN-BANAWIS
Member
Employees' Compensation Commission - Secretariat

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