

## Annex 5: Access to Healthcare and Social Security Benefits for Migrants in Thailand

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### *Healthcare*

Thailand first adopted universal health coverage in 1997, and based on the current Thai Constitution,<sup>1</sup> all Thai nationals are insured for their health care.<sup>2</sup> Migrants' right to access health services in Thailand was explicitly articulated in the "Certificate of Patients' Rights" established by the Medical Practitioners Organization of Thailand in 1998. Article 2 states that, "medical patients have the right to receive medical treatment by a health practitioner without discrimination on the basis of their ethnicity, nationality, religion, society, status, sex, age or medical condition."<sup>3</sup>

The insurance schemes providing healthcare to migrants have varied over time, in accordance with applicable migrant registration policies/regularization schemes, their accompanying regulations at the time, as well as the politics of the day in Thailand.

After 2004, undocumented migrants from Cambodia, Lao PDR and Myanmar<sup>4</sup> were expected to follow the Nationality Verification (NV) process in order to regularize their status during windows of legal registration. During the NV process, migrants could acquire a temporary identity card from the Ministry of Interior and a work permit from the Ministry of Labor (MOL), while they then applied for a temporary passport or Certificate of Identity from their home country. During this process, migrants were obliged to buy annual health insurance under the Health Insurance Card Scheme (HICS) of the Ministry of Public Health (MOPH). The total costs were approximately USD 63 (THB 1900), including USD 20 (THB 600) for their medical exams and USD 43 (THB 1,300) for health insurance. An additional co-payment of USD 1 (THB 30) per visit was required when receiving care from health facilities, and thus it was commonly referred to as the "30 Baht scheme."<sup>5</sup> Over time, the cost of the card increased from USD 43 (THB 1,300) per year to USD 73 (THB 2,200) per year. In 2013, the MOPH also initiated an insurance scheme for migrants' dependent children under seven years old, charging USD 11 (THB 365) per year. The procedures changed in mid-2014 when the government launched its One Stop Service to facilitate the registration process for migrants. The price of a HICS card was reduced to USD 53 (THB 1,600) per year for an adult, but the insured were required to pay USD 106 (THB 3200) for two-year coverage.

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<sup>1</sup> Section 47 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017) states that "A person shall have the right to receive public health services provided by the State – [and] [a]n indigent person shall have the right to receive public health services provided by the State free of charge as provided by law."

<sup>2</sup> In Thailand, there are three main health insurance schemes: (1) The Universal Coverage Scheme (UCS) for the general Thai population; (2) the Civil Servant Medical Benefit Scheme; and (3) the Social Security Scheme (SSS) for employees in the private sector (except domestic workers).

<sup>3</sup> See also World Health Organization, "The Kingdom of Thailand Health System Review," 2015, p. 47, accessible at [http://apps.searo.who.int/PDS\\_DOCS/B5410.pdf](http://apps.searo.who.int/PDS_DOCS/B5410.pdf). "[P]atient rights include: the right to use essential health services without discrimination by social status, race, nationality, religion or others factors."

<sup>4</sup> The process for Myanmar did not commence official until 2009.

<sup>5</sup> The "30 baht scheme," requiring the co-payment of 30 THB, was used for Thai citizens from 2001-06 but now Thai citizens have access to free universal health care, under the UCS.

With the phasing out of previous migrant registration policies, currently there are two official health insurance schemes under which migrants can access health services. (1) The Social Security Scheme (SSS), which is open to migrants who meet the definition of an employee,<sup>6</sup> and who have regularized their immigration status, including those who have either completed the NV process or are “imported workers” or “MOU workers” who have migrated to Thailand through the formal recruitment process established by the bilateral MOUs with the countries of origin. (2) The Compulsory Migrant Health Insurance (CMHI), managed by the MOPH, which targets other migrants, either those subject to explicit exclusions such as seasonal agricultural workers or domestic workers, or those who do not meet the formal definition of an employee.

The current CMHI operates similarly to its predecessor. Migrants who report having any of the following conditions are not granted a work permit: active tuberculosis, obvious leprosy or filariasis, stage 3 syphilis, narcotic drug addiction, intestinal worms or malaria. Workers pay USD 53 (THB 1,600) for one year (plus health exam) upon registration, but also pay a small amount USD 1 (THB 30) per hospital visit. CMHI offers a fairly extensive healthcare benefits, but excludes treatment for chronic diseases, limits treatment to 180 days and child delivery costs to THB 13,000. Migrants may only seek treatment at the hospital where they took the health examination for the work permit and even though they may transfer to other provinces if employer moves, cannot transfer within province. Coverage for dependents is limited to children up to 7 years of age if they can provide a birth certificate and 13-digit ID.

### *Social Security*

Article 33 of the Social Security Act B.E. 2533 (1990) (SSA),<sup>7</sup> covers private employees and provides them with healthcare insurance benefits in cases of injury or disease.<sup>8</sup> Participation in SSS is mandatory for all employees as defined by the Labour Protection Act.<sup>9</sup> Additional benefits include, childbirth and maternity leave,<sup>10</sup> disability,<sup>11</sup> child allowance,<sup>12</sup> old-age pension,<sup>13</sup> death/

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<sup>6</sup> The Royal Decree categorizing employees in accordance with Section 4 of Social Security Act, (B.E. 2560) (2017), specifically excludes employees in agricultural activities, the fisheries, forestry and livestock whose employers do not hire employees for the whole year; and their work is not related to other industry/sector.

<sup>7</sup> Article 33 remains in place in current amendment Social Security Act (No. 4), B.E. 2558 (2015)

<sup>8</sup> If establish 3 months of contribution within last 15 months, medical care is free of charge at registered hospitals (there are approximately 242 registered hospitals in Thailand) and includes prescribed medicines. Cash benefits can include 50 percent of wages, 90 days each time, with maximum of 180 days per year and maximum of 365 days for chronic cases.

<sup>9</sup> The definition under the Act is seemingly broad, defining an “employee” as a person who agrees to work for an employer in return for wages regardless of name. However Thai law, often relies on a distinction between “employment” vs. “contract labour” as defined under Sections 575 and 587 of the Civil and Commercial Code (No. 18), B.E. 2551 (2008). Several Labour Court decisions prescribe a test for employment based on the following factors: 1) does the employer have control over the worker 2) are there set hours of work 3) are there regular payments set. (4) if employee takes leave, does he/she need permission from employer. See Labour Court cases: 812/2548 , 2548/2548, 2970/2548, 5345/2549, 8750/2550, หนังสือรวมคำบรรยาย ภาคหนึ่ง สมัยที่ 64 ปีการศึกษา 2554 เล่มที่ 1 จัดพิมพ์โดย สำนักอบรมศึกษากฎหมายแห่งเนติบัณฑิตยสภา

<sup>10</sup> If establish 7 months contribution within last 15 months, medical care coverage of up to THB 13,000 and 90 days benefits at 50 percent of salary (maximum 2 confinements for each insured person)

<sup>11</sup> If establish 3 months of contribution within last 15 months, eligible for reimbursement up to THB 4,000 per month and 50 percent of wages for the whole life.

<sup>12</sup> If establish 12 months contribution within last 36 months, eligible for a lump sum of THB 400 per month per child, but children must be 6 years old or younger and not more than 2 children at a time.

<sup>13</sup> To be eligible for Social Security retirement benefits, contributions must have been made to the fund for at least 180 months, although such contributions do not need to be consecutive. Employees who reach this threshold can receive benefits after they reach age 55. Currently the pension amounts to 20 percent of the average wage received over the last 60 months and

survivor benefits,<sup>14</sup> and unemployment insurance.<sup>15</sup> A non-Thai national who ceases to be insured and does not wish to continue residing in Thailand will be entitled to old-age compensation in the form of a lump sum payment if they have not contributed towards the scheme for 180 months and completed work contracts without an intention to continue working in Thailand.<sup>16</sup> This is a tripartite payment scheme that includes government, employers, and employees. Employers and employees each contribute 5 percent of an employee's salary (with a current maximum monthly contribution of THB 750 as of August 2019) and the government 2.75 percent. A voluntary social security system for workers not defined "as employees" or otherwise excluded from labour protection, is run by the Social Security Office pursuant to Article 40 of the SSA. However, this coverage was designed for Thais and not migrant workers and does not include medical treatment, which is covered by the UCS for Thai nationals. Depending on the selection of plans offered, voluntary participation in SSS could include disability benefits, funeral expenses and an old-age pension.

All workers classified as employees are also covered by the Workmen's Compensation Act, B.E. 2537, A.D. 1994, which sets forth the obligations of employers to pay compensation to an employee or the employee's representatives in the case of work-related injury, sickness, death or disappearance.<sup>17</sup> Employers are required to contribute to the Workmen's Compensation Fund (WCF), according to rates set by the MOL. No employee contribution is required. The contributions are generally assessed on the total wages of employees multiplied by the contribution rate of the specific type of business, with the rate typically ranging from 0.2-1.0 percent of wages based on the risk rating of the industrial establishment. In September 2015, the Thai Supreme Administrative Court held that the protection was intended to cover all employees without discrimination or categorization. However, the WCF still has exclusions for employers who are not legal entities and who do not carry out any business related work.<sup>18</sup>

In addition to actual expenses for medical treatment, the employee is entitled to monthly wages equivalent to 60 percent of his or her normal wages, for up to fifteen years depending on injury or disability.<sup>19</sup> The method to calculate monthly wages is made according to the MOL. If the employee is deceased, the employer has to pay funeral expenses,<sup>20</sup> and death benefits to the

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1.5 percent per additional 12 months of contributions above 180 months. Thailand has not entered into any Social Security mutual recognition agreements with any other states.

<sup>14</sup> If establish 1 month contribution within 6 months before death, entitled to a funeral grant of THB 40,000 and if contributed to a grant fund for survivors for more than 10 years, family is eligible to receive 5 month wages. For 3-9 years of contribution, eligible for 1.5 month wages.

<sup>15</sup> Technically eligible after 6 months contribution within 15 months before unemployment, but migrant workers are required to leave Thailand or find new employment within 15 days and benefits only began after 10 days.

<sup>16</sup> See MOL, "New Social Security Act Provides More Benefits for Insurers with Effect this 20 October, 2015, accessible at: <http://www.mol.go.th/en/content/new-social-security-act-provides-more-benefits-insurers-effect-20th-october>.

<sup>17</sup> Medical expenses include medical treatment as necessary, not exceeding THB 50,000 per time but if medical expenses exceed THB 500,000, employees may be reimbursed up to THB 1,000,000.

<sup>18</sup> MOL Announcement Regarding the size of business, local employers pay contributions, contribution rate deposit rate to assess and collect contributions, 19 March 2019 (in Thai), accessible at [http://www.ratchakittha.soc.go.th/DATA/PDF/2562/E/067/T\\_0019.PDF](http://www.ratchakittha.soc.go.th/DATA/PDF/2562/E/067/T_0019.PDF)

<sup>19</sup> Temporary disability (60 percent of wages for 1 year), partial disability (60 percent of wages for 10 years), total disability (60 percent of wages for 15 years).

<sup>20</sup> Funeral grant is calculated as 100 times the highest minimum daily wage.

employee's family.<sup>21</sup> If the employer is up-to-date with respect to their contributions to the WCF, the fund bears the expenses, although the employer remains obliged to front the initial expense and then seek reimbursement from the fund.

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<sup>21</sup> 8 years of 60 percent of wages.