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Legal access rights to health care

COUNTRY PROFILE

THAILAND

Legal access rights to health care country profile: Thailand

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Legal recognition of access rights to essential health services, medicines and vaccines

Rights-based approach

Section 47 of the Thai Constitution stipulates several rights pertaining to health care: every person is granted the right to access public health services provided by the State; destitute people may access public health services free of charge; and the prevention and treatment of harmful infectious diseases is free for all. Section 55 of the Constitution reiterates the right to universal health care, and additionally mandates the State to provide health promotion and preventative services and to support Thai traditional medicine. Section 71 reinforces the State's obligation to promote the population's health, while Section 258(g)(5) mandates the Government to establish a primary health care system with an adequate number of family physicians. [1]

The National Health Act defines health as "the state of human being which is perfect in physical, mental, spiritual and social aspects, all of which are holistic in balance" (Section 3). It stipulates the right to live in a healthy environment (Section 5) and the right to health promotion for women, children, elderly, socially deprived persons, people living with disability and other groups with specific health characteristics (Section 6). [2]

Every person has the right to a standard and efficient health service.

Based on Section 5 of the National Health Security (NHS) Act, every person has the right to a "standard and efficient health service" as provided for in the Act[1]. The National Health Act provides further health-related rights, such as the right to confidentiality of a person's health data (Section 7) and the right to receive adequate health information (Section 8). [2, 3]

Citizens

Citizens are covered by one of three public health schemes:

- Civil Servant Medical Benefit Scheme (CSMBS) for public sector employees and their dependents (spouse, parents, children under 20 years of age), mandated by Royal Decree on Medical Benefits of Civil Servant and managed by the Comptroller General Department at the Ministry of Finance; [4]
- Social Health Insurance (SHI) scheme for private sector employees between the age of 15 and 60 years at companies with at least ten employees (no cover for dependents, except for maternity), managed by the Social Security Office at the Ministry of Labour. Persons who are neither employees nor specifically excluded[2] by the Social Security Act can enrol on a voluntary basis by notifying the Social Security Office. The legal basis of the scheme is the Social Security Act for non-work related conditions and the Workmen's Compensation Act for work-related injuries, disabilities and mortality. [5, 6]
- Universal Coverage Scheme (UCS) for the rest of the population not covered by the CSMBS or SHI scheme. The UCS is administered by the National Health Security Office, an autonomous public agency.[3] About 76% of the population are covered by UCS. [7]

The UCS provides free care at the point of service, accessed by the insured by presenting a smart card. Beneficiaries can choose their preferred provider amongst the approved health care providers under the scheme. The National Health Security Office maintains a registry of eligible persons, based on the Ministry of Interior's population database, which is shared with other social health protection organisations. [4, 7]

UCS and CSMBS are tax-financed, with progressive tax deductions. The SHI scheme is funded by tripartite payroll contributions with equal contributions of 1.5% of the salary by the employee, employer and government. [4, 5, 8, 9]

The three public health insurance schemes are not harmonized resulting in duplication of investments and different clinical practice guidelines for the same conditions. [4]

Private health insurance in Thailand is mostly offered as part of life insurance, but a very small market for health insurance alone exists. Complimentary private health insurance is not offered. Around 2.2% of the population are covered by private health insurance (as part of life insurance or standalone). Premium payments are subject to personal income tax relief to encourage coverage. Benefits are very similar to the three public health insurance schemes but offer more choice with respect to private hospitals. [4]

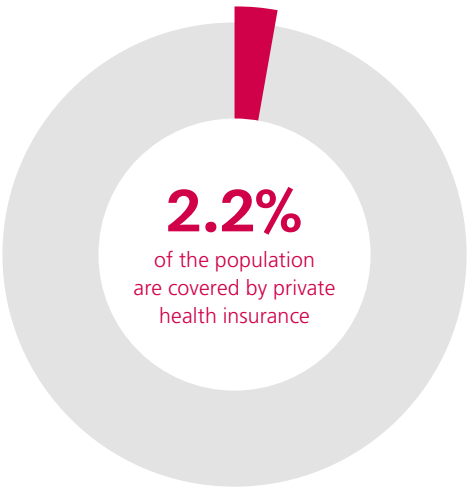
Persons awaiting proof of Thai nationality

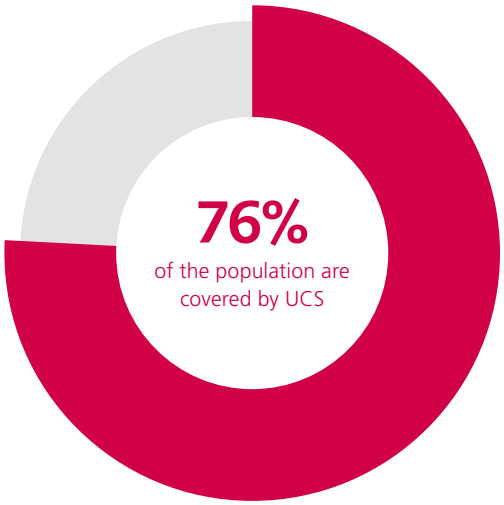
Persons awaiting proof of Thai nationality (PWTN) are a minority group of around 450,000 people holding citizen cards issued by the Government, but with identity numbers of a different category than the ones of Thai nationals. Consequently, they are not considered Thai nationals and cannot access the UCS until they receive Thai nationality. PWTN are also not considered migrant workers and as such cannot access the insurance schemes open to migrants. [4]

PWTN fall in three categories: people born in Thailand but who were not registered at birth and for lack of a legal birth certificate cannot receive a Thai national identity number; hill-tribe minorities in the northern provinces living along the Thai border; and people who immigrated to Thailand a long time ago. [4]

PWTN are covered through the Ministry of Public Health, which provides an annual budget based on the number of PWTN registered with the Bureau of Registration Administration at the Ministry of Interior. PWTN have to register with a health care provider network in their domicile province to receive a similar benefit package to those covered under the UCS. [4]

Private health insurance in Thailand is mostly offered as part of life insurance, but a very small market for health insurance alone exists.





Documented migrants

Documented migrants with a work permit employed in the formal sector have the same access rights and benefit entitlements under the SHI as Thai nationals. [8]

Documented migrants working in the informal sector are not covered by SHI and must enrol in the Compulsory Migrant Health Insurance (CMHI), run by the Ministry of Public Health, to get health care coverage for themselves; enrolment of their dependents (spouse and children) is voluntary. Tourists and foreigners of Caucasian descent are not eligible to enrol. The scheme's aims are to provide health care to migrants and to screen for and treat infectious diseases. Enrolment does not require a work permit or proof of residency. Migrants apply for CMHI coverage at the hospital where they receive their mandatory yearly health screening for tuberculosis, syphilis, microfilaria, malaria, HIV and leprosy (if tested positive, they receive treatment). Inpatient and outpatient care are linked to the hospital where they register for the insurance scheme. Enrolment in the scheme is based on an annual premium of 2,200 Baht (around USD 62)[4], prepaid by the employer and deducted from the wage throughout the year. The scheme is solely financed by premium payments and does not receive employer or state contributions. Migrants pay 500 Baht (around USD 15) for the yearly screening which is compulsory for continued insurance coverage. Insurance for migrant children up to seven years of age is available at 365 Baht (around USD 12).[8, 10-12]

The Ministry of Public Health established the CMIH without a legal basis. Therefore, the Ministry does not have the legal authority to force migrants to enrol in the CMIH, nor to sue employers who do not purchase an insurance card for their employees. Consequently, the CMIH is not as compulsory as its name may suggest. [12]

The Ministry of Public Health established the CMIH without a legal basis.

To improve health care access for migrants, the Ministry of Public Health started implementing additional health services in 2003 such as volunteer community health workers, volunteer community health educators recruited from migrant communities and workplaces, mobile clinics for migrant communities, bilingual signposts and information in health clinics (mostly Thai and Burmese) and outreach services in the workplace. [8]

Undocumented migrants

All other migrants, independent of their work, citizenship or legal status, can opt to enrol in the CMHI on a voluntary basis to receive coverage for themselves and their dependents (spouse and children). The enrolment process and coverage are equal for undocumented migrants as for documented migrants. If they do not enrol in this voluntary scheme, they must pay for treatment out of pocket or seek help from non-governmental organisations and international organisations. At the discretion of hospital staff, they sometimes get exempted from fee payment, subsidized by hospital revenue. [8, 12]

The additional health services implemented by the Ministry of Public Health in 2003 also target undocumented migrants. Due to international pressure and to increase uptake of health insurance and enable wider screening for infectious diseases, a multisectoral policy was introduced in 2014 to encourage illegal workers to register for temporary permission to stay. The policy was managed by the Immigration Bureau of the Interior and the Ministries of Commerce, Labour and Public Health. [8]

Benefit package

Legal mechanism to define the benefit package

The initial UCS benefit package rolled out in 2001/2002 was defined such that it reflected the benefit packages of the already existing CSMBS and SHI scheme. Since then, the benefit package's scope is defined by the NHSO's Benefit Package Subcommittee using a structured process using health technology assessment and criteria such as cost-effectiveness analysis, budget impact assessment, equity, ethical considerations, ability to scale up and demand for services based on changing population expectations. The process also requires consultation with stakeholders, including policy-makers, medical specialists or representatives from the Royal Colleges, public health experts, the general public and representatives of the medical device and pharmaceutical industries as well as civil society organisations and patient groups. [4, 13]

The benefit package's scope is defined by the NHSO's Benefit Package Subcommittee using a structured process.

Benefits of the SHI scheme are defined by the Social Security Office at the Ministry of Labour and prescribed by Royal Decree (Section 40 Social Security Act). The Royal Decrees are drafted and issued by the Social Security Office and approved by the Cabinet. [14]

Benefits of the CSMBS are defined by the Bureau of Medical Welfare[5], which is part of the Comptroller General Department at the Ministry of Finance. The Bureau considers the benefit packages of the NHSO and SHI scheme as well as the National List of Essential Medicines in its decisions on the CSMBS's benefit package. [14]

The benefits of the CMHI are defined by the Ministry of Public Health. [15]

Entitlements under the benefit package

The broad areas included in the UCS benefit package are defined by Section 55 of the Thai Constitution as health promotion, control and prevention of diseases, medical treatment and rehabilitation. [1]

The UCS benefit package focuses on primary care and covers outpatient, inpatient, accident and emergency services; antiretroviral therapy; renal replacement therapy (peritoneal dialysis); kidney and bone marrow transplantations for cancer treatment; dental care (preventive and curative); high-cost care; diagnostics; special investigations; medicines included in the National List of Essential Medicines; medical devices (270 covered items); maternity care (limited to two deliveries); as well as clinic-based preventative and health promotion services. Excluded are cosmetic surgery and treatments whose effectiveness is not proven. The benefit package is almost identical to the benefit package of the SHI scheme. [4, 7]

While some hospitals provide mental health services, most of mental health care is provided through the Department of Mental Health at the Ministry of Public Health and does not form part of UCS. Long-term care has traditionally been provided by the patients' families and relatives and is not covered in the UCS benefit package which focuses on acute care. However, endeavours are under way to implement strategies and financing for long-term care to avoid overburdening of hospitals. [4]

The SHI scheme covers ambulatory and inpatient care; accident, emergency and rehabilitation services; antiretroviral therapy; renal replacement therapy (haemodialysis and peritoneal dialysis); cornea transplantation; kidney and bone marrow transplantations for cancer treatment; dental care (limited to twice per year at 300 Baht, around USD 9, per treatment); medicines included in the National List of Essential Medicines; medical devices (88 covered items); and maternity care (limited to two deliveries, provided as lump sum cash payments). Excluded are cosmetic surgery and treatments whose effectiveness is not proven. [4, 5]

The CSMBS covers ambulatory and inpatient care; accident, emergency and rehabilitation services; antiretroviral therapy; renal replacement therapy (haemodialysis and peritoneal dialysis); organ transplantations; dental care (no limits); medicines on the National List of Essential Medicines; medicines not included in the National List of Essential Medicines if three doctors approve it in the hospital; medical devices (387 covered items); and unlimited coverage of maternity services. Excluded are cosmetic surgery and treatments whose

effectiveness is not proven. [4] Also excluded are temporary contraception, planned parenthood and pregnancy tests. [16]

Since neither the CSMBS nor the SHI scheme cover clinic-based preventative and health promotion services, the UCS provides these services for all Thai citizens. Primary prevention and health promotion outside the clinical setting are provided as part of the budget of the Ministry of Public Health and the Thai Health Promotion Foundation[6], an independent quasi-public body established by the Health Promotion Foundation Act in 2001. [4, 13, 17]

Since neither the CSMBS nor the SHI scheme cover clinic-based preventative and health promotion services, the UCS provides these services for all Thai citizens.

The CMHI scheme for migrants covers comprehensive curative services, including antiretroviral therapy, and a range of prevention and health promotion services, similar to but not as comprehensive as the benefit scheme of the UCS. Children of migrants receive a full schedule of vaccinations like children of Thai citizens. Excluded services are aesthetic surgery; treatment for psychotic disorders and substance abuse; treatment for infertility and artificial insemination; sex change; organ transplants; dental prosthesis; renal replacement therapy (haemodialysis and peritoneal dialysis); and treatments which are still in the experimental phase. [8, 11, 15]

Legal mechanism to enforce access rights

implicated health care provider within 30 days of issuance of the QSCB's decision. Even though the National Health Security Act stipulates that the Board's decisions are final, it is standard practice that they can be appealed using the administrative court system, just as any other government decision. [4, 13, 14]

In 2015, the NHSO received 4,269 complaints, of which 37% related to health care providers not providing services as set out in the benefit package and 22.4% to health care providers charging fees without legal basis. 74.05% of complaints could be settled within 25 working days. [18]

Beneficiaries of the SHI can complain using the SHI website, a phone hotline or sending a letter. Appeals against orders under the Social Security Act can be submitted to the Appeal Committee. The Appeal Committee's written decision becomes final unless it is appealed against at the Labour Court within 30 days of receiving the written ruling. [4, 5]

The CSMBS does not offer an effective process to handle complaints of beneficiaries. [4]