

Legal Basis for Maternity Benefits for Women Working in the Private Sector Under State Social Insurance: Practical Issues and Legislative Improvement Proposals

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Abstract: This article discusses the organization of maternity benefits for women working in the private sector in Uzbekistan under state social insurance. It highlights the issues that arise in practice and the existing challenges in the current system. The focus is on the practical problems faced during the payment of maternity benefits to women employees working in the private sector, i.e., outside state-funded organizations, based on employment contracts with entrepreneurial entities. The article also provides legal and theoretical proposals to address these issues. Based on the research conducted, scientific and theoretical suggestions for improving the sector in the future are offered.

Keywords: social protection, state social insurance, protection mechanisms, budget organization, employee of a legal entity, temporary disability benefits, maternity benefits, childbirth benefits, state-provided old-age, disability, and survivor pensions.

According to Article 25 of the Universal Declaration of Human Rights, everyone has the right to a standard of living adequate for the health and well-being of themselves and their family, including food, clothing, medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other circumstances beyond their control. Social insurance in any country is a key component of state social policy. A developed social insurance system provides citizens with effective protection mechanisms and ensures economic stability, creating an atmosphere of social solidarity in society.

In Uzbekistan, a social insurance system is in place that provides temporary disability benefits, maternity benefits, childbirth benefits, state-provided old-age, disability, and survivor pensions, and other payments stipulated by legislation, all funded by state social insurance. Additionally, it is mandated that maternity benefits be provided to pregnant women, who are considered to be in greater need of social protection, from state social insurance funds.

According to data from the Ministry of Employment and Labor Relations, as of 2023, a total of 89,078 women in the republic have taken maternity leave, of which 76,618 are in the public sector, and 12,460 are in the private sector. Although significant efforts are being made in the country to ensure the payment of maternity benefits under state social insurance, systemic problems persist in this area. The article further discusses the current state of the sector and the need to improve the normative-legal documents used in this direction.

As we all know, according to the Decree of the President of the Republic of Uzbekistan "On Measures to Further Accelerate Systematic Support for Families and Women" dated March 7, 2022, No. PF-87, it is stipulated that maternity benefits (hereinafter referred to as the benefit) should be paid from the state budget to women who have had continuous work experience of at least six months in any legal entities, excluding budgetary organizations.

Moreover, maternity benefits for women who have had continuous employment for the last six months in all legal entities, except for budgetary organizations, are granted based on the Regulation on the Procedure for Assigning and Paying Maternity Benefits under State Social Insurance, approved by the

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Cabinet of Ministers' Resolution No. 515 dated September 20, 2022 (hereinafter referred to as the Regulation). According to data from the Ministry of Economy and Finance, in the period from September to December 2022, benefits were granted to 4,671 women with continuous employment for the last six months in all legal entities outside budgetary organizations, and a total of 9.3 billion UZS was paid from the Social Insurance Fund. In the period from January to July 2023, benefits were granted to 9,523 women, and a total of 18.9 billion UZS was paid from the Fund.

However, it is also worth noting some shortcomings in the practical implementation and operation in the sector. According to the requirements of the Regulation approved by Resolution No. 515 of the Cabinet of Ministers dated September 20, 2022, the sick leave certificates for maternity leave should be entered into the "Tibbiyot" IT system within 5 days, but these records were not entered in time or were delayed by responsible employees of medical institutions in various regions of the republic.

Specifically, in the fourth quarter of 2022, sick leave certificates for maternity leave for 1,471 women, and in the first and second quarters of 2023, for 2,312 women, were either not entered or were delayed in being entered into the "Tibbiyot" IT system.

According to Clause 10 of the Regulation, the information on the sick leave certificate should be entered into the "Tibbiyot" IT system by the responsible employee of the regional outpatient clinic or maternity hospital within 5 working days from the date the sick leave certificate was issued.

Next, let's address the issues related to entering information about women's employment and work experience into the "Unified National Labor System" (UNLS) interdepartmental software and hardware complex.

According to Clause 3 of Resolution No. 515 of the Cabinet of Ministers dated September 20, 2022, "On Measures to Develop the State Social Insurance System," from September 20, 2022, the Ministry of Poverty Reduction and Employment is required to ensure that information on women's employment and work experience is provided to the "Unified Registry" IT system online via the interdepartmental integration platform of the "Electronic Government" system through the "Unified National Labor System" interdepartmental software and hardware complex.

Additionally, Clause 36 of the Regulation stipulates that the employer is responsible for ensuring that information about the employment contract and employment status of a woman eligible for benefits is entered into the UNLS and that any discrepancies regarding work experience are corrected in a timely manner.

However, in the fourth quarter of 2022 and the first and second quarters of 2023, in more than a thousand cases across the republic, information about women's employment and work experience was not entered by employers, and this issue was not monitored by the Ministry of Poverty Reduction and Employment and its regional bodies, resulting in these shortcomings.

Moreover, the regional financial bodies did not monitor the assignment of benefits. According to Clauses 28, 29, and 30 of the Regulation, the monitoring of the assignment of benefits is to be carried out by the relevant regional financial bodies.

Finally, after the benefit is assigned, the "Unified Registry" IT system automatically verifies within ninety days, through the "Civil Registry Unified Electronic Archive" information system, the birth of the child, including stillbirth or adoption of the child.

Including cases of stillbirth or the adoption of a newborn, these details are checked. If, during the verification process, it is found that there is no record of the child's birth, including cases of stillbirth or the adoption of a newborn, a list of benefit recipients by region is compiled.

The compiled list is reviewed on a selective basis by responsible employees of the Ministry of Finance of the Republic of Karakalpakstan, the finance departments of the regional and Tashkent city administrations, and/or the district (city) finance departments by visiting the Civil Registry offices and/or medical institutions by the end of each month.



However, in some cases, the district (city) finance departments did not conduct monitoring during the fourth quarter of 2022 and the first and second quarters of 2023 across the republic.

Moving on to the experience of foreign countries, in Germany, the social security system provides maternity benefits to compensate for lost income for pregnant and breastfeeding mothers. Maternity benefits serve as a legally guaranteed assurance that the woman will receive a certain period's salary during and after pregnancy, regardless of her actual work conditions.

Additionally, maternity benefits are designed to compensate working mothers for the loss of income during maternity leave. A woman's entitlement to receive maternity benefits begins six weeks before the expected due date and continues for eight weeks after childbirth. In some cases, such as the birth of twins or premature birth, this period may be extended to 12 weeks after the child is born.

In Germany, any woman is entitled to maternity benefits. The amount of the benefit depends on whether the woman is obliged to have health insurance or whether she has personal, voluntary, or family insurance.

Maternity benefits are paid by the health insurance provider at a maximum rate of 13 euros per day. If this amount is less than the employee's net daily wage, the employer is required to cover the difference up to the amount of the net wage.

For example, a German citizen working part-time (0.5 employment) with mandatory health insurance receives a maximum of 13 euros per day, or 390 euros per month, as maternity benefits.

Self-employed women in Germany are required to have voluntary insurance that includes sickness benefits. For self-employed individuals, maternity benefits amount to 70% of their regular income contributions. However, a self-employed woman with voluntary insurance that does not include sickness benefits is not entitled to maternity benefits.

Additionally, to provide further financial support to new parents, the German government offers the Elterngeld scheme, which compensates parents for lost income for up to 24 months.

In Germany, parents are also entitled to several other benefits. Specifically, the person responsible for the child's care receives financial assistance from the government in the form of child benefits (Kindergeld).

According to Article 29 of Georgia's current Labor Code, leave for pregnancy, childbirth, and childcare, as well as for the adoption of a newborn, is paid from the state budget of Georgia. The employer and employee may agree on additional payments.

Furthermore, according to Article 64 of the "Law on Public Service," a public servant is granted 730 calendar days of leave for pregnancy, childbirth, and childcare upon request.

In the case of complications during childbirth or during delivery, 183 calendar days of leave are granted, and in the case of twins, 200 calendar days are granted, with benefits paid. Payments are made from the relevant state institution's budget in the amount of the official salary.

A person who adopts a child under the age of one is entitled, upon request, to 550 calendar days of leave following the adoption of the newborn. Out of this total leave, 90 calendar days are paid by the relevant state institution's budget in the amount of the employee's salary.

If an employee is absent from work due to undergoing a medical examination during pregnancy, this time is considered as part of the working hours, and if supporting documents are provided, the employee's salary will be retained.

Chapter 19 of the Labor Code of Azerbaijan outlines the types of social leave, including the rules and conditions for taking maternity leave. During pregnancy and the postpartum period, working women are granted 126 calendar days of paid leave (70 calendar days before childbirth and 56 calendar days after childbirth). If childbirth is difficult or if two or more children are born, the postpartum leave is extended to 70 calendar days.



Women working in agricultural production are granted maternity leave according to the following schedule: 140 calendar days for normal childbirth; 156 calendar days for difficult childbirth; and 180 calendar days for the birth of two or more children.

Even women who adopt children are eligible to apply for leave (Article 126). Women who adopt or care for a child up to two months old are entitled to 56 days of specific social leave after childbirth, as well as additional leave provided for in Article 117 and partially paid leave provided for in Article 127.

According to Article 99 of the Labor Code of the Republic of Kazakhstan, benefits associated with pregnancy and childbirth include maternity benefits (for women employed under a labor contract), a one-time payment upon the birth of a child, and payments for childcare until the child reaches the age of one and a half years.

The duration of maternity leave is 126 days (70 calendar days before childbirth and 56 calendar days after childbirth). In cases of difficult childbirth or the birth of two or more children, the postnatal leave is extended to 70 calendar days.

For unemployed women, the monthly childcare allowance until the child reaches the age of one and a half years is determined by law and is linked to the monthly calculation index (MCI). For the first child, it is 5.76 MCI or 19,872 tenge, for the second child - 6.81 MCI or 23,495 tenge, for the third child - 7.85 MCI or 27,083 tenge, and for the fourth or subsequent children - 8.90 MCI or 30,705 tenge. Additionally, both working and non-working women are entitled to receive a one-time childbirth benefit. The one-time state benefit for childbirth is paid from the republican budget, and its amount is linked to the minimum MCI set for the current year, which for 2023 is 3,450 tenge. Based on the above, the following recommendations are proposed to improve the regulatory and legal framework governing the sector:

1. A new provision should be established to grant maternity leave not only to women who are pregnant or have given birth but also to women who adopt a child (newborn).
2. Taking into account the experience of foreign countries, it is advisable to pay benefits to women on maternity leave in an amount not less than 100% of their average monthly salary.
3. For reference: According to Article 404 of the Labor Code, women on maternity leave are entitled to benefits set by law, but not less than 75% of their average monthly salary.
4. Monitoring the assignment of benefits should be carried out by the relevant district (city) financial authorities.
5. It is necessary to implement a procedure for notifying citizens via SMS or other communication channels within 5 working days from the date of issuance of the disability certificate.
6. Pregnancy and maternity benefits should be paid from the State budget to women who have had continuous work experience for the last 6 months, including individual entrepreneurs and all legal entities other than budgetary organizations. These benefits should be calculated based on the minimum consumer expenses for each month.
7. It is necessary to introduce a "proactive system" for the assignment and payment of pregnancy and maternity benefits to women working in both state and non-state organizations, without requiring them to submit applications.

