NEW POINTS IN THE DRAFT LAW ON HEALTH INSURANCE

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The Law on Health Insurance 2008 is a significant step forward in the legal system of health insurance, which is a mechanism to ensure financial resources for people's medical examination and treatment needs, contributing to social security and international integration. However, the 15-year implementation of the Law on Health Insurance 2008 has shown certain obstacles, inadequacies, and limitations that must be addressed. In order to perfect the regulations on health insurance in accordance with the Party's policies and orientations, in line with the practice and the compatibility with the health insurance laws of other countries, the Ministry of Health is drafting a Law amending and supplementing a number of articles of the Law on Health Insurance 2008 (**Draft Law**) with a number of noteworthy points as follows:

Expanding the scope of people participating in health insurance

The Draft Law has supplemented a number of groups of people participating in health insurance (the premium to be paid by both employees and employers) such as:

(i). Employees working under a fixed-term employment contract of at least one month, including cases where the employee and the employer make an agreement under a different name but with contents recognizing paid work, salary, and the management and supervision by one party;
(ii). Controllers, representatives of the state capital, representatives of enterprise capital; members of the board of directors, general directors, directors, members of the board of controllers or controllers and other elected management positions of cooperatives and cooperative unions under the Law on Cooperatives *receiving salaries*.
(iii). Enterprise executives, controllers, representatives of the state capital, representatives of enterprise capital; members of the board of directors, general directors, directors, members of the board of controllers or controllers and other elected management positions of cooperatives and cooperative unions under the Law on Cooperatives *not receiving salaries*.
(iv). Employees who are foreign citizens working in Viet Nam under a fixed-term employment contract with

a term of 12 months or more with an employer, except for cases of internal transfer within an enterprise, and have reached retirement age at the time of signing the employment contract under clause 2, Article 169 of the Labor Code or other relevant provisions of international treaties to which Viet Nam is a member;
(v). Employees working under indefinite-term employment contracts, and the employees specified in item (i) working part-time with monthly salaries equal to or higher than the lowest salary used as the basis for compulsory social insurance payment and being subject to mandatory social insurance participation.

These groups of subjects are supplemented to ensure consistency with the provisions of the Law on Social Insurance 2024 (effective from July 1, 2025). The Draft Law also amends and supplements some other subjects to be consistent with the Law on Officers of the Viet Nam People's Army 2014, the Law on People's Public Security 2018, the Law on Forces Participating in Protecting Security and Order at the Grassroots Level 2023, the Law on Militia and Self-Defense Forces 2019, the Law on Social Insurance 2024, etc.

Amending and supplementing regulations on health insurance contribution rates and responsibilities to pay health insurance premiums

The contribution rates for some groups of health insurance participants supplemented in the Draft Law are as follows:

- The monthly contribution level of the subjects specified in items (i), (ii), (iv), and (v) above is a maximum of 6% of the monthly salary, of which

the employer pays 2/3 and the employee pays 1/3.
- The monthly contribution level of the subjects specified in item (iii) above is a maximum of 6% of the monthly salary used as the basis for compulsory social insurance payment and paid by the employee.

The Draft Law also specifically recognizes that during the time the subjects specified in items (i), (ii), (iv), and (v) above take maternity leave for 14 working days or more in a month or take sick leave for 14 working days or more in a month according to the laws on social insurance, the maximum monthly contribution is equal to 6% of the employee's monthly salary before maternity leave/sick leave, and is paid by the social insurance organization.

In addition, the Draft Law has recognized the groups of subjects in items (i), (ii), (iv), and (v) above in the provisions on determining the order of health insurance payment in the case where a person simultaneously belongs to many different health insurance participant groups. Specifically, in the case that the subjects specified in items (i), (ii), (iv), and (v) above have one or more indefinite-term employment contracts or employment contracts with a term of one month or more, they shall pay health insurance according to the employment contract with the highest salary at the time of payment.

Supplementing regulations on late payment and evasion of health insurance contribution

The Draft Law has supplemented the definitions of late payment and evasion of health insurance contribution, and at the same time recognized that these acts will be strictly prohibited in health insurance. Accordingly, the Draft Law describes the acts of late payment and evasion of health insurance contribution as follows:

(a) Late payment of health insurance is one of the following acts of the employer:
- Not paying or not paying in full the amount of health insurance premiums after the deadline for health insurance premium payment as prescribed in Article 15 (Methods of health insurance premium payment), Article 17 (Issuance of health insurance cards) of the Law on Health Insurance, except for the cases prescribed in clause 10, Article 2 of the Law on Health Insurance (Evasion of health insurance premium payment);
- Not registering or not registering the full number of people required to participate in health insurance within 60 days from the deadline as prescribed in Article 17 of the Law on Health Insurance;
- Subject to a case that is not considered as evasion of health insurance premium payment as prescribed in clause 10, Article 2 of the Law on Health Insurance.

(b) Evasion of health insurance payment is the act of an employer in one of the following cases to prevent paying or paying in full health insurance premiums for employees (except for cases with legitimate reasons as prescribed by the Government):
- After 60 days from the expiry date of the prescribed period for health insurance engagement according to Article 17 of the Law on Health Insurance, the employer fails to register or register the full number of people required to participate in health insurance;
- Registering the salary used as the basis for paying health insurance lower than the amount stipulated by the laws on health insurance;
- Not paying or not paying in full the amount registered for health insurance or not registering the full number of people required to participate in health insurance after 60 days from the expiry date of the period stipulated in Article 17 of the Law on Health Insurance or point b, clause 9, Article 2 of the Law on Health Insurance (Delayed payment of health insurance).

To ensure compatibility with the above definition, the Draft Law also supplements the final deadline for employers' payment of health insurance in Article 15, which is:
- The last day of the following month for the monthly payment method;
- The last day of the following month immediately following the payment cycle for quarterly or biannual payment methods.

In addition, the Draft Law amends the related sanctions to be compatible with the regulations on late payments or evasion of health insurance payments. Specifically, agencies, organizations, and employers held responsible for delaying or evading health insurance payment must "*pay the full amount of the payment delayed/evaded; pay an amount equal to 0.03%/day calculated on the amount of payment delayed/evaded and the number of days of delaying or evading payment to the health insurance fund; (be) imposed with administrative sanctions or prosecuted for criminal liability according to the provisions of law for acts of evading health insurance payment; (be) not considered in being awarded emulation titles or forms of commendation*".

The proposals in the Draft Law, especially the provisions on expanding the scope of people participating in health insurance, as well as delaying and evading health insurance payment, will further improve the health insurance policy, ensuring that people can participate in health insurance according to appropriate groups while creating compatibility in the legal system. The National Assembly is expected to discuss and approve the Draft Law at the 8th session (October 2024). Enterprises need to study the content and continue to pay attention to the development of the Draft Law to promptly update amendments and supplements upon its promulgation and effectiveness.