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Legal access rights to health care

COUNTRY PROFILE

JAPAN

Legal access rights to health care country profile: Japan

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

Citizens and residents

Citizens are required to enrol with either National Health Insurance[1] or Employees' Health Insurance[2]. Enrolment is based on age, employment status and/or place of residence. [1]

Employed persons and their dependents are covered by the Employees' Health Insurance System run by the Japan Health Insurance Association and Society-Managed Health Insurance, which is regulated by the Health Insurance Act. [1, 2]

Self- and unemployed people are covered by the National Health Insurance (NHI) run by municipal governments, based on the National Health Insurance Act. Some professional groups are covered by their own insurers based on respective laws.[3] Citizens and residents 40 years of age and older are mandatorily enrolled in long-term care insurance provided by municipalities, based on Art. 9f of the Long-Term Care Insurance Act. [1, 3, 4]

Elderly aged 75 and above are required to enrol in the late-stage medical care.

Elderly aged 75 and above are required to enrol in the late-stage medical care system for the elderly instead of NHI. This separation was introduced in 2008 with the Act on Assurance of Medical Care for Elderly People. [1]

NHI enrolment must happen within two weeks of becoming eligible for coverage. This might happen because of immigration from overseas, moving to another municipality, birth to parents not covered by an employees' scheme, losing coverage through an employees' scheme (e.g. due to redundancy or becoming self-employed), or increased income (i.e. not being eligible anymore for coverage under the social welfare system). [5]

Foreigners moving to Japan are required to enrol in the NHI after three months of residency in Japan, unless they are covered by Employees' Health Insurance. [5]

The co-payment rate is 30% for all insured persons aged 6 to 69 years. To prevent financial hardship, monthly out-of-pocket thresholds exist which vary according to the insured's age and income. In addition, annual household out-of-pocket ceilings are in place, which also vary according to age and income. Payments above the ceilings get reimbursed. Monthly ceilings also exist for people on low income. Persons insured through NHI (unemployed, retirees and self-employed) are entitled to reduced premiums if they are on a low income; if they are on a medium income, they are eligible if they face major, unexpected income reductions. Beneficiaries of the Employees' Health Insurance System do not pay premiums during parental leave. [6]

People living below the poverty line are covered by the social welfare system based on the Public Assistance Act (Articles 15 and 34). They receive the same care for free (100% governmental subsidy) than those insured under the statutory health care system. The criteria to define the poverty line vary among prefectures. [1, 7]

Co-payment reduction programmes exist for various population and disease groups to reduce catastrophic health expenditure:

- Patients suffering from 331 specified intractable or chronic diseases pay reduced co-insurance rates (varying by income) as long as they use designated health care providers. [1]
- Persons suffering from disabilities and mental health issues are also eligible for co-payment reductions based on the Services and Supports for Persons with Disabilities Act; however, this is restricted to those falling below pre-defined limits of household income[4]. [8, 9]
- Based on the Child Welfare Act and the Maternal and Child Health Act, co-payment reduction is granted for children with low birth weight, tuberculosis or chronic diseases. [10, 11]
- Diagnosis and treatment for some infectious diseases is covered by prefectures for all. For more information, see below under title "Limited set of essential health services, medicines and vaccines accessible to all, including groups without health coverage". [12]

Japan's private health insurance companies do not provide traditional private health insurance but offer supplemental income in case of illness (sick pay). Most of Japan's population buys private health insurance to supplement or complement their statutory cover with cash benefits in case of illness. Private health insurance companies pay lump-sum payments or daily payments over a defined period, mostly for specific chronic diseases. [6]

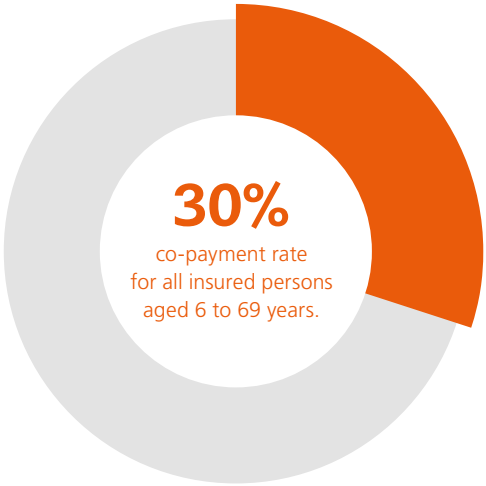
Documented migrants

Documented migrants are treated the same as residents (foreigners living in Japan for more than three months) based on Article 7 of the NHI Act and Article 35 of the Health Insurance Act. Both acts do not distinguish documented foreigners based on their legal status. [2, 3]

Undocumented migrants and visitors

Undocumented migrants and visitors are not covered by Japan's statutory health care system and need to pay for health care out of pocket. [6]

People living below the poverty line are covered by the social welfare system. They receive the same care for free.



Benefit package

Legal mechanism to define the benefit package

The Central Social Insurance Medical Council, a governmental body under the Ministry of Health, Welfare and Labour, defines the scope of the benefit package and sets prices/fees for both the NHI and the Employee's Health Insurance based on the Social Insurance Medical Council Act. The Council publishes the list of covered procedures and medicines (approx. 5,000 procedures and 17,000 medicines), including prices/fees, every two years. The Central Social Insurance Medical Council is composed of representatives of payers and providers as well as people representing the public interest (e.g. economists, journalists, ethicists). Government endorses the Central Social Insurance Medical Council's decisions and is responsible for health care regulations. [6, 9]

Entitlements under the benefit package

The benefit package for both the NHI and Employees' Health Insurances schemes are the same.

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The benefit package covers hospital, primary, specialty, and mental health care; hospice care; physiotherapy; most dental care; approved prescription drugs; ante-natal care and delivery in case of pregnancy complications (normal pregnancy is not covered); and home care services by medical institutions (if provided by non-medical institutions, then home care services are covered by long-term care insurance). Optometry services are only covered if provided by physicians; corrective lenses are excluded except for children aged under 9 if recommended by a physician. [6]

Based on the Maternal and Child Health Act, parents receive the Maternal and Child Health Handbook, which contains information and all data on their ante- and post-natal check-ups, delivery and complications; continued guidance and consultation from public health nurses during pregnancy; screening for congenital metabolic diseases after delivery; three well-baby check-ups (at 3-4 months, 18 months and 3 years of age); hepatitis B vaccination; and, if the mother lives with hepatitis B, free immunoglobulin. Most municipalities provide up to five additional health check-ups for babies and children. [1]

Preventive services, such as general medical check-ups, screening, counselling and health education, are not included in the NHI scheme, but covered by municipal governments (Art. 82 of the National Health Insurance Act). In addition, employed persons have a right to yearly health check-ups, including mental health, paid for by their employer based on the Industry Safety and Health Act. [1, 3]

Ante-natal care and delivery for pregnancies without complications are excluded but covered through the municipal governments which grant lump sum payments upon application (Article 58(1) of the National Health Insurance Act and Articles 101 ff. of the Health Insurance Act). [2, 3, 9]

Immunization services are also excluded from the NHI benefit package but covered through municipal governments who pay for children's vaccinations and the pneumococcal vaccine for persons aged above 65. Orthodontics, cosmetic surgery and treatments as well as single-patient bedrooms are excluded from the NHI benefit package and have to be paid for out-of-pocket. [5, 9]

Work-related injuries and conditions are also excluded as they are covered by the workers' accident compensation insurance plan, run by the Government. The insured entities are private companies. The legal basis is the Industrial Accident Compensation Insurance Act. [13]

Coverage can be limited or refused for injuries or conditions incurred intentionally or as a result of extreme misconduct, crime, fighting or drunkenness. [2, 3]

Medical costs are not reimbursed if patients fail to follow instructions regarding their treatment or do not provide necessary paperwork or undergo necessary examination to support reimbursement claims without a justifiable reason. [2, 3]

Persons suffering from pollution-related diseases can receive various benefits based on the Law Concerning Pollution-Related Health Damage Compensation and other Measures: medical expenses, medical care allowance, disability compensation, survivors' compensation, survivors' lump-sum compensation, child compensation allowance, and funeral expenses. [14]

Legal mechanism to enforce access rights to health care

Health care providers enter into contracts with insurers and directly claim for reimbursement for treatments provided to persons insured through the NHI. If insurers refuse to pay for provided services, health care providers can use the complaints process set out in Articles 91ff. of the National Health Insurance Act. Health care providers may file an application for examination verbally or in writing with the responsible National Health Insurance Examination Board within 60 days of the insurer's decision to refuse payment of an insurance claim (or other decisions or actions deemed unrightful, e.g. how the monthly or annual cap is applied). An application for examination must be filed with the Examination Board of the prefecture governing the location of the insurer or municipality which took the disputed action; if a complaint is submitted to an Examination Board without jurisdiction, it must promptly transfer the application to the correct Examination Board, notifying the claimant of the transfer. Each prefecture has a National Health Insurance Examination Board composed of nine part-time members representing insured persons, insurers and the public (three each). Examination Board members serve three-year terms and can be reappointed. The majority of an Examination Boards' members must be present to have quorum, and decisions are taken by majority; in case of a tie, the Chairman decides. Decisions cannot be appealed by health care providers and they are required to cover the costs not reimbursed by insurers.[5] If the insurer and health care provider cannot come to an agreement, then the beneficiary could claim for reimbursement directly from their insurer. However, this is quite rare given the fact that health care providers need to cover unpaid fees, not the beneficiaries. [3, 9]

The complaints process for the Employees' Health Insurance is similar to the one of the NHI. Health care providers claim for reimbursement, and in case of disagreement with the insurers' decisions, they can submit a complaint to the Social Insurance Examiner. A total of six examiners are appointed by the Ministry of Health, Welfare and Labour. Health care providers can demand for a re-examination if they disagree with the Examiner's decision. A decision following re-examination is final. If a request for examination is not decided within two months, dismissal of the examination is assumed. If a complaint is dismissed, health care providers must cover the amount not reimbursed by insurers. If the insurer and health care provider cannot come to an agreement, then the beneficiary could claim for reimbursement directly from their insurer. However, this is quite rare given the fact that health care providers need to cover unpaid fees, not the beneficiaries. [2, 9]

Anti-discrimination provisions applicable to health care

Ratification of international human rights instruments

Japan has acceded to the International Covenant on Economic, Social and Cultural Rights and has ratified the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities. [15]

National anti-discrimination provisions and complaint mechanisms

The Japanese Constitution stipulates in Article 14 equality before the law and prohibits discrimination with political, economic or social consequences based on race, creed, sex, social status or family origin. [16]

The Public Assistance Act's Article 2 contains a non-discrimination and equality clause with respect to receiving public assistance through the Ministry of Health, Welfare and Labour. The clause does not list the characteristics based on which discrimination is prohibited. [7]

The Basic Act for Persons with Disabilities includes an anti-discrimination clause in Article 4 to prohibit discrimination based on disability. The Act for Eliminating Discrimination against People with Disabilities defines measures applicable to both government authorities and private companies to eliminate discriminatory behaviour and access barriers for people living with disabilities. [17, 18]

The Act on Securing Equal Opportunity and Treatment between Men and Women in Employment sets out measures in Articles 12 and 13 requiring employers to protect women from discrimination during pregnancy and after child-birth. [19]

In February 2019, parliamentary endeavours started to develop a basic law governing health care, which might include anti-discrimination provisions