

## HEALTHCARE FINANCING AND REIMBURSEMENT: A GLOBAL REVIEW OF MAJOR TOPICS AND TRENDS

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## LAWS AND REGULATIONS ON HEALTHCARE FINANCING AND REIMBURSEMENT

- 1. Please provide a bird's eye view on the healthcare economy, indicating, in general terms, the role of the government (public healthcare) and private actors (private healthcare).**

The responsibility for the administration of the health system in Guatemala lies with the central government, through the Ministry of Public Health and Social Assistance, which ensures that health services are provided to the entire population, free of charge. The central government is responsible for regulating the financing of the public health system, ensuring access to health services free of charge to the Guatemala population, as well as establishing the bases for ensuring the quality and safety of pharmaceutical products and related products marketed in the country.

The healthcare economy in Guatemala is structured in a mixed model, in which the public sector, composed of a national, municipal and social security network, and the private sector coexist to meet the needs of the population. Despite the state having established a national network of free services for primary care, national hospitals and health programmes throughout the territory, the coverage is insufficient to serve the entire population, especially in rural and difficult-to-reach areas.

At the micro level, municipalities have a subsidiary role in health promotion, especially in areas related to disease prevention, health education and in the implementation of specific programmes for vulnerable groups.

Although municipal governments do not have the economic capacity to provide complex medical care, they play a role in the management of primary-level health clinics and centres, in coordination with the central government and in the implementation of local public health policies.

To develop the governance of the health sector, the government has formed an organisation composed of centralised and decentralised public agencies and institutions, autonomous, semi-autonomous, municipalities, private institutions, non-governmental and community organisations, whose competence or purpose is the administration of health actions, including those dedicated to research, education, training and capacity building of human resources in health matters and health education at the community level.

The public system is also supported by public social security insurance, which is mandatory for all workers and operates through the Guatemalan Social Security Institute, as the main public, autonomous insurer, and whose financing is made up of mandatory contributions from workers and employers registered in the social security system. Coverage of services

through social insurance provides affiliated workers (and their families) with comprehensive medical care and economic benefits for disability, maternity and retirement. Social security contributions constitute one of the main sources of financing for the public health sector in the country.

In addition to the services of the public sector, there is the Military Medical Service, which covers health services for the military and national civil police through hospitalisation, supply of medicines, and rehabilitation services.

Private health insurance coverage is paid for on a personal basis, or as part of the benefits offered by Employers in the private sector (in addition to the mandatory payment of social security contributions).

Other non-governmental organisations (NGOs) in the country often fund public health projects and disease prevention campaigns, and facilitate access to medical treatment in rural communities or areas where the national network does not provide coverage. These services are usually offered free or at low cost and focus mainly on specialised services for vulnerable groups and chronic diseases. These organisations work together with governments and the private sector to provide medical care.

## **2. Please provide a high-level overview of the legal framework regarding healthcare financing and reimbursement.**

Economic resources for the public sector offered by the national and municipal health network come from the state's fiscal income, international donations and, to a lesser extent, fees for administrative services offered by the Ministry of Public Health and Social Assistance.

The administration and execution of the national budget allocated annually to the Ministry of Public Health and Social Assistance are regulated by the Health Code of Guatemala, as well as other legal frameworks that govern the structure of the service network, a list of medicines accessible through public services and the public procurement of supplies used in the national network, such as the State Contracting Act.

On the other hand, social security operates by constitutional mandate through the Guatemalan Social Security Institute (Instituto Guatemalteco de Seguridad Social or IGSS) as an autonomous government entity that is regulated by the Organic Act of the Guatemalan Social Security Institute. The board of directors of this institute creates the rules that regulate its operation; the list of primary and secondary medicines that are supplied in the network; the bidding bases for the purchase of supplies; and the social security system that establishes the operating bases of the assistance, maternity, retirement and disability programmes.

The private insurance sector is regulated by community laws such as the Law on Insurance Activity, the Law on Banks and Financial Groups and the Law Against Money Laundering. Additionally, they are subject to regulations from the Bank Superintendency of Guatemala.

The private sector that operates through private hospitals is financed mainly by direct payments from users and, to a lesser extent, by payments from insurers that offer private or collective medical insurance. The private medical sector must adhere to the common health standards established by the Executive Branch of the State and its way of operating is subject to private regulations. In the case of insurance companies that offer medical insurance, they must be governed by the common standards of the Law on Insurance Activities and the Law

on Banks and Financial Groups, in which the state does not intervene in establishing the form of contracting, its final operation, prices or form of reimbursement or disbursement to individuals.

### **3. What are the key regulators and supervisory bodies regarding healthcare financing and reimbursement?**

The Ministry of Public Health and Social Assistance (Ministerio de Salud Pública y Asistencia Social or MSPAS) is the primary government agency responsible for health policy formulation, public healthcare services and overall regulation of the health sector in Guatemala. It supervises and manages public health institutions, including hospitals, health offices and rural health posts, ensuring service delivery to the general population. The MSPAS plays a pivotal role in healthcare financing through national health programmes and public health initiatives. The MSPAS directly controls the budget allocated to public healthcare facilities and reimburses costs associated with government-funded healthcare programmes. It is also responsible for coordinating with international donors.

The IGSS is the country's social security institution that provides health and social protection services to employed workers and their dependents. It operates under its own legal framework because it is autonomous. It is funded by mandatory contributions from employers, employees and, by law, the government. This institute offers healthcare services, including outpatient care, hospitalisation, maternity care and specialised medical services. In addition, it manages social security benefits, such as pensions for retirement, disability and survivors. The IGSS uses a contribution-based financing model. It reimburses healthcare providers for specialised services rendered to its affiliates, and operates its own healthcare facilities and pharmacies. Reimbursement policies are governed by regulations specific to social security contributions created by the board of directors of the Guatemalan Social Security Institute, which is made up of representatives of the Executive Organism of the State, the Monetary Board of the Bank of Guatemala, the Superior Council of the Public University of Guatemala, the College of Physicians and Surgeons of Guatemala, and representatives of the employer sector and the affiliated workers sector of the institution.

International and NGOs contribute to healthcare financing and reimbursement through funding specific health programmes, technical assistance and direct service provision.

The key regulator of private insurance companies is the Bank Superintendence of Guatemala.

### **4. Has there been a change to healthcare financing and reimbursement as a consequence of the Covid-19 pandemic?**

The pandemic crisis led to a substantial increase in public health expenditure in Guatemala, as the government sought to mitigate the spread of the virus and address the urgent needs of the healthcare system. Due to the public health sector's limited coverage in the territory, there were significant changes into the system of healthcare financing after the emergency.

During the pandemic, the MSPAS and IGSS were at the forefront of this response. They increased their focus on public health infrastructure, including the construction of field hospitals and expansion of ICU capacities. Additionally, significant resources were directed toward securing and distributing vaccines.

In the private sector, especially among private health insurers, the pandemic forced a reassessment of coverage policies and reimbursement mechanisms. Many private insurers and healthcare providers in Guatemala quickly adopted telemedicine as a viable option for providing healthcare remotely. This shift allowed insurers to expand their service offerings, while reducing the need for in-person clinic or hospital visits. Private insurance providers adjusted their reimbursement policies to accommodate the growing need for Covid-19-related treatment, including testing, hospitalisation and specialised care. Some insurers temporarily expanded coverage for Covid-19-related services, while others created specific packages for Covid-related care. Due to the creation of vaccines and the ease of access to them, this type of insurance has lost relevance in the sector.

On one hand, the pandemic pushed the government to increase its spending and improve infrastructure in the short term, while on the other, it exposed gaps in the financing and reimbursement mechanisms, particularly in the public healthcare system. The pandemic also highlighted the growing importance of the private sector and NGOs in supporting the overall healthcare response, while simultaneously revealing the financial challenges faced by both insurers and insured individuals.

**5. Who has access to the healthcare system as a patient on the one side and as a medical service provider/supplier of medical goods on the other side? What are the conditions of admission?**

In Guatemala, access to health is structured through a combination of public and private systems, each with specific conditions for admission as a patient.

The public health service administered primarily by the Ministry of Public Health is available to the entire population within the Guatemalan territory without any conditions. This means that all Guatemalan citizens, as well as legal residents, have the right to access health services in public hospitals and health offices; however, in practice, access may be limited by geographic location, availability of services, medications and financial restrictions. The public system does not provide essential and non-essential medications, so the population that uses the public service must directly pay for the medications, in some cases.

On the other hand, social security has a wide range of healthcare services, including hospitalisation, surgery, medications and preventive care. The social security fee is mandatory for the formal sector of workers; therefore, social security admits as patients all workers formally registered with social security, as well as their relatives (wives) and children under five years of age). As social security is centralised in a single institute, the service is often overloaded, which generates long waiting times for non-emergency services and patients may have to wait months, or even years, for specialised treatment.

The private health system in Guatemala is more accessible to people who can afford private healthcare services or have private health insurance. This system is usually preferred by those with higher income levels, as it generally offers faster access to treatment, higher quality care and a wider range of specialised services. Those with private health insurance or who are self-insured can access private hospitals and clinics at any time. Private insurers offer different levels of coverage, including specialised care, elective surgery, supply of medications with partial reimbursement, medical clinic services and emergency treatment. People who are uninsured must pay directly for health services and medications without any subsidy or reimbursement from the government.

On the other hand, the public sector, social security and private sector use different mechanisms for contracting medical services and goods, so the conditions to be admitted as a supplier will depend on it. In the case of the public sector and social security, the interested supplier must be governed and registered as a *state supplier* through the public contracting system called 'Guatecompras' in which the state or Social Security carries out public bidding events for the purchase of medical supplies and hiring of technical and professional services. Each public tender has specific requirements and conditions, but in general terms, the potential supplier must be formally established in the country (unless it is an international tender for the specialty of the product) and present the documentation of technical and financial capacity to provide the services or goods, as well as demonstrate compliance with the technical and legal standards of the Ministry of Public Health, such as obtaining licenses and permits for the operation of services and the lawful marketing of products within the territory.

On the other hand, the private sector is governed by its own rules for the purchase and sale or methods of acquiring medical services and goods without state intervention, with the exception of the requirements and conditions that potential providers must meet, which must comply with legal regulations to provide services and products in the territory.

## HEALTH INSURANCE FINANCING AND COVERAGE

### 6. How are health insurance carriers financed? How are premiums determined?

In Guatemala, private health insurance carriers operate on a for-profit basis and are regulated mainly by the Banking Superintendency (institution that regulates insurance activity in the country). These private insurers offer health insurance plans to both individuals and employers, and the financing mechanism is based on premium direct payments from policyholders along with the cost-participation (out-of-pocket and deductible). Insurance premiums are set by the insurance company (with prior authorisation from the Superintendency of Banks) and offered to individuals (individual and family insurance) or groups of workers (collective insurance). The quality of the coverage depends on the value of the premium and the type of coverage selected (eg, hospital care, outpatient services, prescription drugs and emergency services). Higher levels of coverage or more comprehensive plans result in higher premiums.

#### Family or group coverage

Premiums for family plans or group insurance offered by employers are generally lower per individual, due to risk-sharing across a larger pool. Many employers in the private sector offer health insurance as part of their employee benefits package. The cost of premiums is often shared between the employer and employee. This reduces the out-of-pocket expense for employees, but increases the total cost for the employer.

In social security insurance, the IGSS is the primary public health insurance provider in the country. It offers health coverage to formal sector workers and their dependents (spouses and children). The IGSS is financed by mandatory economic contributions made by affiliated employees, employers and, by law, the state. The percentage of the contribution is set through the norms established by the board of directors and the Organic Act of the

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| <p>Guatemalan Social Security Institute. Currently, a quota of 15.5 per cent of the total salary of the affiliated worker is established, in which the employer subsidises 10.67 per cent and the worker the remaining 4.83 per cent. The combined contributions of employers and employees fund the IGSS health insurance system.</p>  |
| <p><b>7. How is the coverage of medical services by health insurance carriers regulated? Are there differences in coverage for in-person medical appointments and telemedicine appointments?</b></p>  |
| <p>Medical insurance coverage is regulated by the general rules of the Insurance Activity Act, as well as the authorisation and registration of adhesion contracts that insurance companies submit to the Superintendency of Banks. This government institution is responsible for ensuring compliance with the rules, as well as supervising and inspecting insurance companies in their operations.</p> <p>On the other hand, the Ministry of Public Health and Social Assistance ensures compliance with health regulations by medical service providers (directly, hospitals, health offices, medical clinics and pharmacies).</p> <p>The coverage conditions in relation to in-person medical appointments and telemedicine may or may not vary, as these are set directly by the insurance company and accepted by the insured, which must be established in the description of the services covered in the insurance adhesion contract previously registered with the Superintendency of Banks.</p>  |
| <p><b>HOSPITAL SECTOR</b></p>   |
| <p><b>8. How are services provided by hospitals in the stationary (inpatient) and ambulatory (outpatient) settings financed and reimbursed?</b></p>   |
| <p>Hospital and outpatient services in the public sector are financed directly by the government through the annual budget assigned to the Ministry of Public Health and Social Assistance. The patient does not have to make any outlay as these services are completely free of charge without conditions. In the case of social security, they are financed directly by the institution (Guatemalan Social Security Institute) through its annual budget, which is made up of the monthly fee that the worker pays to said institution. The patient does not have to make any extra payment or outlay because the health services are fully covered by the institution to which he or she is affiliated.</p> <p>In the case of the private sector, these services are financed directly by the patient (in the case of not having medical insurance), without the possibility of reimbursement or subsidy by the government. In the case of patients insured with private health insurance, it depends on the insurance coverage because there is medical insurance that includes outpatient services without an outlay additional to the premium. In the case of hospital medical services, the insured makes a direct payment to the service provider and the insurance company reimburses the payment to the insured in full or proportionally. The amount and modality depends on the type of insurance that the patient acquires.</p> |
| <p><b>9. How are the prices of such services determined? How is economic efficiency controlled?</b></p>   |
| <p>Tariffs and prices are set in accordance with the principle of contractual freedom. Tariffs are primarily agreed in contracts between insurers and service providers. If insurers and service</p>  |

providers agree on a tariff contract, it must be submitted to the competent authorities (the Superintendency of Banks) for approval of the general agreement.

The government does not intervene in the setting of prices for private health insurance or services, it only intervenes in the regulation of the operating conditions of private insurance companies by establishing a regulatory framework for this. The activities of contracting health insurance are governed mainly by a private contract between the parties, the common laws of the commercial code and the Insurance Activity Act.

## HEALTHCARE PROVIDERS IN PRIVATE PRACTICE

### 10. How are services provided by physicians, therapists, laboratories and other service providers financed and reimbursed?

These types of services provided in the national health system are financed directly by the government through the annual budget assigned to the Ministry of Public Health and Social Assistance. The patient does not have to make any outlay as these services are completely free of charge, without conditions.

In the case of social security, they are financed directly by the institution (Guatemalan Social Security Institute) through its annual budget, which is made up of the monthly fee that the worker pays to said institution. Social security may directly contract outsourced professional services for highly specialised medical services, such as ophthalmological services (consulting and surgery), geneticist services and X-ray services, for which the social security institution is directly responsible for contracting and paying the health provider directly; the patient does not to pay disbursements or require financing of any kind because social security has full coverage.

In the case of the private sector, these services are financed directly by the patient (in the case of not having medical insurance), without the possibility of reimbursement or subsidy by the government. In the case of patients with private health insurance, the financing and reimbursement depend on the insurance coverage.

### 11. How are the prices of such services determined? How is economic efficiency controlled?

Tariffs and prices are set in accordance with the principle of contractual freedom. Tariffs are primarily agreed in contracts between insurers and service providers. If insurers and service providers agree on a tariff contract, it must be submitted to the competent authorities (the Superintendency of Banks) for the approval of the general agreement.

The government does not intervene in the setting of prices for private health insurance or services, it only intervenes in the regulation of the operating conditions of private insurance companies by establishing a regulatory framework for this. The activities of contracting in health insurance are governed mainly by the private contract between the parties, the common laws of the commercial code and the Insurance Activity Act.

## PHARMACEUTICALS AND MEDICAL DEVICES

### 12. How are pharmaceuticals and medical devices financed and reimbursed?

It should be noted that the national health network does not have a budget allocated to

provide pharmaceutical products and medical devices to patients. There is only a budget allocated for medical supplies for internal use within hospital networks, as well as the supply (albeit scarce) of essential pharmaceutical products. Patients within the national health network must directly pay for these types of products without financial assistance from the government. However, there are social assistance programmes so that patients in the national network can have access to low-cost medicines through social pharmacies that are partially subsidised by the government and non-governmental organisations.

In the case of social security, pharmaceutical and medical devices are financed directly by the institution (Guatemalan Social Security Institute) through its annual budget, which is made up of the monthly fee that the worker pays to said institution. The affiliate has access to these goods without any extra disbursement.

In the case of the private sector, these services are financed directly by the patient (in the case of not having medical insurance), without the possibility of reimbursement or subsidy by the government. In the case of patients insured with private health insurance, the financing and reimbursement depend on the insurance coverage. There is no financial assistance from the government in these cases.

### **13. How are the prices of pharmaceuticals and medical devices determined? How is economic efficiency controlled?**

Tariffs and prices in the private sector are set in accordance with the principle of contractual freedom. Tariffs and reimbursement conditions are primarily agreed in contracts between insurers and healthcare providers.

The government does not intervene in the pricing of private health insurance or pharmaceutical/medical devices. Instead, it only regulates the operating conditions of private insurance companies by establishing a regulatory framework for this. The activities of contracting health insurance are governed mainly by a private contract between the parties, the common laws of the commercial code and the Insurance Activity Act.

## **LITIGATION INVOLVING HEALTHCARE FINANCING AND REIMBURSEMENT**

### **14. Please provide a high-level overview of major litigation topics and landmark cases regarding healthcare financing and reimbursement.**

#### **File 6820-2019 Constitutional Court of Guatemala**

In 2019, a constitutional protection action was filed against the insurance company BMI Guatemala SA for a case of the early termination of the coverage of a policy for a minor (Niccolo Sandoval), a decision made by the insurer when it became evident that the contracting person had omitted to the company that the child had been hospitalised before the submission of the application for the medical insurance policy.

According to the insurance company's allegations, the minor's parents requested medical coverage in March 2019 after the hospitalisation to which the minor had been subjected at the beginning of March 2019 in a private health centre in Guatemala. The insurer granted the insurance policy based on the information it had received. After the policy was issued, the insurer had in its hands the information sent by the hospital where the insured was being treated in the United States and where he had already had a lung transplant, and completed

the file with the reports regarding the minor's previous hospitalisation, which had been sent to the insurer after the policy was issued.

In accordance with Article 908 of the Commercial Code of Guatemala, the omission of important facts for the assessment of risk or that could influence the conclusion of the contract authorises any insurer to terminate the insurance contract early without the need for a prior judicial declaration. The counterparty alleged that the information regarding the minor's medical history, since birth, was shared with the insurer during the weeks in which the granting of the policy was in the process of evaluation and therefore, no information was omitted that could influence the acceptance of the granting of the insurance policy.

A civil court granted a definitive injunction in favour of the insured, ordering the insurer to reinstate the health insurance policy (with a maximum annual benefit of \$3m) to cover and make disbursements to the Texas Children's Hospital, which oversaw the insured's hospitalisation and lung transplant. The insurance company filed an appeal against this decision before the Constitutional Court (highest court), which, in November 2021, upheld the appeal and therefore revoked the judgment issued in favour of the insured's parents.

## **RECENT DEVELOPMENTS AND TRENDS**

**15. What are the recent developments and trends for the next few years? Please outline any unresolved issues, proposed changes or trends for healthcare financing and reimbursement, and briefly indicate how these may foreseeably affect the medical sector in the near future.**

### **Upcoming changes to legislation/regulations**

The new Competition Law of Guatemala, in force since last year, will create challenges on how prices of medicines are set in the public sector by local distributors, hopefully providing conditions for genuine market competition in relation to medicines and medical devices.

### **Ongoing litigation regarding fundamental issue(s) and expected judgments**

Information is not available at this time.

### **Factual shifts regarding financing (total spend and distribution among payors)**

Information is not available at this time.