

## 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 healthcare economy in Nicaragua is regulated by the government, as mandated by the Constitution. The Constitution designates the state as the principal authority responsible for directing, organising, and ensuring the delivery of healthcare programmes, services and actions. This responsibility includes overseeing healthcare financing, as outlined in other applicable laws. The healthcare economy is monitored through various regulatory and supervisory bodies, as further detailed herein.

Nicaraguan legislation establishes multiple funding mechanisms for healthcare, which differ depending on whether the services are provided through the public or private sectors. Funding sources include, but are not limited to, allocations from the general national budget, donations, external cooperation resources, payments for services provided by healthcare facilities to the Nicaraguan Institute of Social Security (hereinafter INSS for its acronym in Spanish), revenues from differentiated service payments, fees for services provided to patients who are not part of any social security regime, social security contributions and insurance coverage.

Regarding the options available for individuals to access healthcare systems (from an economic standpoint and as a means of funding) the Nicaraguan system consists of:

- *Contributory regime:* Related to individuals who make contributions under a mandatory Social Security regime. Individuals will be entitled to the set of benefits established by the social security system, based on its social security regime.
- *Non-contributory regime:* This provides free healthcare services aimed at supporting vulnerable populations. Individuals will be entitled to the health plans and programs defined by the Ministry of Health (hereinafter MINSa for its acronym in Spanish), which can be accessed through public healthcare service providers, according to the level of resolution and available capacity.
- *Voluntary regime:* This includes payments made directly by users, outside the contributory regime, such as, out-of-pocket payments by patients, either to insurance carriers or directly to healthcare providers. Individuals will be entitled to the benefits offered by insurance carriers or healthcare providers, based on their preferences and ability to pay.

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

The legal framework governing healthcare financing and reimbursement includes the following:

- Law number 423, General Health Act, published in *The Gazette (La Gaceta)* number 91 on 17 May 2002 (hereinafter the ‘General Health Act’).
- Executive Order number 001-2003 Ruling of General Health Act published in *The Gazette (La Gaceta)* number 7 and 8 on 10 January and 13 January 2003, respectively. (hereinafter the ‘Regulation of General Health Act’).

The General Health Act and its Regulation are the main instruments that govern healthcare matters in Nicaragua. Specifically, regarding healthcare financing and reimbursement, they outline the different funding sources that sustain the healthcare system, the various economic regimes for individuals to access healthcare services, and the mechanisms through which healthcare services are financed.

- Executive Order number 975 Social Security Law, published in *The Gazette (La Gaceta)* number 49 on March 1982, as amended (hereinafter the ‘Social Security Act’).
- General Ruling of Executive Order number 975 of Social Security Law, published in *The Gazette (La Gaceta)* number 49 on March 1982, as amended (hereinafter the ‘Regulation of Social Security Act’).

The Social Security Act and its Regulation set forth the structure of the Nicaraguan social security system, outlining the types of regimes, the terms of contribution, healthcare coverage and benefits, and the role of INSS in managing such funds.

- Law number 733 General Insurance, Reinsurance and Bonds published in *The Gazette (La Gaceta)* number 162, 163 and 164 on 25 August, 26 August, 27 August 2010, respectively (hereinafter the ‘Insurance Act’).

The Insurance Act defines the incorporation and operation of, among others, insurance carriers. It also establishes the scope of healthcare insurance carriers, service parameters, and its supervisory body.

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

The regulators/supervisory bodies regarding healthcare financing and reimbursement are described as follows:

- **MINSA:** Coordinates, organises, supervises, inspects, controls, regulates, orders, and oversees the healthcare system in general terms. MINSA is responsible for developing policies, plans, programmes, national projects, and manuals on public health in all its dimensions, including healthcare financing. Moreover, MINSA must assess the evolution of financing sources within the country and recommend policies for their strengthening. Likewise, MINSA regulates the practice of medicine, healthcare services, and the registration of healthcare professionals.
- **INSS:** Oversees the Nicaraguan Social Security system. INSS is responsible for collecting social security contributions and coordinating the distribution of benefits to individuals in accordance with the applicable regime, as established by the relevant legislation.
- **Superintendency of banks and other financial institutions (SIBOIF):** Authorises, oversees, and monitors the incorporation and operations of healthcare insurance carriers.

SIBOIF ensures compliance with regulations and protects the rights of users/clients who contract with healthcare insurance carriers.

Individuals are entitled to dispute, through the applicable process (based on the supervisory body against which the action will be exercised), any harm caused by the authority to the individual, or harm caused by a third party supervised or regulated by such authority (eg, insurers carriers, hospitals).

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

As of today, the legal framework has not undergone any changes because of the Covid-19 pandemic. Furthermore, there is no evidence (eg, bills, administrative resolutions, or official communications) suggesting that the Covid-19 pandemic has impacted healthcare financing and reimbursement in Nicaragua.

**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?**

Access to Nicaraguan healthcare services may vary based on the sector of the healthcare provider and/or the regime applicable to the patient. In the public sector, all Nicaraguan citizens are entitled to receive medical care and access the healthcare system as patients, regardless of their age, gender or social status, under the principles of gratuity and universality that are part of the Family and Community Health Model implemented by the State of Nicaragua.

In the public system, access is based on the need for care, prioritising primary care. There are no formal affiliation requirements or direct payments at the time of receiving care in public health centres. In the private sector, there is full contractual freedom, so access depends on the user's ability to pay. Meanwhile, in the social security sector, INSS provides coverage for insured workers and their families, as outlined in the legislation.

Medical service providers must be registered and authorised by MINSA. This includes complying with the licensing requirements for health service provider institutions to obtain their operating licence in accordance with MINSA's regulations, as well as establishing the accreditation process for medical practitioners (eg, physicians).

Regarding financing, public healthcare institutions are funded through allocations from the general budget of the country, donations, external cooperation resources, revenues generated from differentiated service payments and fee payments for services provided by to INSS. Healthcare practitioners working for public healthcare providers are salaried government employees. They do not receive direct reimbursement for services; instead, their salaries and hospital budgets are covered by public funding. Suppliers for public hospitals and clinics must meet government procurement requirements and contracts.

Social security, on the other hand, is mainly financed through contributions from insured individuals as determined by the legislation. INSS must guarantee its contributors and beneficiaries a range of healthcare services, including those for common illnesses and maternity, work-related accidents, and occupational diseases, covering all phases such as prevention, promotion, treatment, diagnosis, and rehabilitation, as stipulated by social security legislation.

Private healthcare providers do not receive funding from the public system. They operate independently, relying on patient payments or agreements with private insurance carriers and/or INSS (for services provided to patients under this regime). For those with private insurance, insurance companies must ensure the financing of healthcare services for their policyholders, beneficiaries, and third parties as agreed.

Nicaraguan citizens residing abroad who return to the country can access the healthcare system under the same conditions as permanent residents. Regarding foreigners, the legislation is limited to establishing that medical care may be provided to them free of charge by any public hospital in case of an emergency.

## HEALTH INSURANCE FINANCING AND COVERAGE

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

Insurance carriers, as entities whose sole economic purpose is health financing, mainly generate their income from the sale of insurance policies. Insurance carriers may seek financing through other means, such as capital contributions and external financing. On the other hand, local legislation includes various mechanisms to protect the liquidity of insurance companies, such as the requirement to maintain a risk capital, cash capital, a minimum capital for incorporation and eventual increase of capital, as well as the establishment of different types of reserves and schemes of profit distribution among shareholders.

Insurance carriers' policies and premiums must be assessed and approved by SIBOIF prior to commercialisation. Insurance carriers must justify each of their coverages, plans, and corresponding risk premiums with a technical note prepared by an actuary registered in SIBOIF. Legislation defines technical note as the document that describes the actuarial calculations which, for each insurance plan or modality, serve as the basis for determining the premiums and surcharges applied by an insurance carrier, as well as justifying its management and administration expenses and the systems used to calculate technical provisions.

Users are entitled to initiate an administrative process if they consider that premiums have not been calculated in accordance with legal parameters. Once the administrative process has been exhausted, the user may appeal the authority's decision before the Supreme Court of Justice, either through an *amparo* recourse or a contentious-administrative lawsuit.

### 7. How is coverage of medical services by health insurance carriers regulated? Are there differences in coverage for in-person medical appointments and telemedicine appointments?

As described in response above, coverage must be supported and are subject of assessment and approval by SIBOIF.

To the best of our knowledge, some insurance carriers provide coverage for telemedicine appointments. The insurance carrier may determine the terms and scope of such coverage for both in-person and telemedicine appointments, provided that the coverage terms have been approved by SIBOIF, as described above.

## HOSPITAL SECTOR

### 8. How are services provided by hospitals in the stationary (inpatient) and ambulatory (outpatient) settings financed and reimbursed?

The financing of services provided by hospitals depends on whether the hospital is public or private, as well as the patient's healthcare regime (contributory, non-contributory, or voluntary). See Q5 for details on the funding mechanisms for both public and private healthcare providers, which includes hospitals. This response also applies to both outpatient and inpatient services.

**9. How are the prices of such services determined? How is economic efficiency controlled?**

To the best of our knowledge, there is no regulation that legally requires hospitals to adhere to specific parameters or methods for charging the services described in the preceding section, when applicable. Prices may be set independently by the hospital or negotiated with INSS or insurance carriers, if applicable.

**HEALTHCARE PROVIDERS IN PRIVATE PRACTICE**

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

Private practices are financed directly by patients through out-of-pocket payments or by private insurance coverage. Private providers set their own prices for their services, which are either paid directly by patients or covered through agreements with private health insurance carriers. Moreover, insurance companies may offer policies that cover full or partial reimbursement of medical expenses paid by the patient.

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

As described in response to the question above, private providers establish their own pricing for their services. There is no regulation that legally requires private providers to adhere to specific parameters or methods for charging their services.

**PHARMACEUTICALS AND MEDICAL DEVICES**

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

In Nicaragua, the financing and reimbursement of pharmaceuticals and medical devices depend on the healthcare sector and the patient's healthcare regime.

- *Contributory regime:* Pharmaceuticals and medical devices are financed through contributions paid by the patient and/or their employer under the social security system.
- *Non-contributory regime:* Pharmaceuticals and medical devices may be provided free of charge by public healthcare facilities.
- *Voluntary regime:* Financed through out-of-pocket payments or insurance carriers' coverage.

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

Nicaraguan legislation only establishes the determination process of prices for pharmaceuticals of human consumption. The prices for these items are determined by the Ministry of Development, Industry, and Commerce (hereinafter MIFIC for its acronym in Spanish) through the establishment of maximum sale price per product, which must be observed by all participants in the supply chain. To determine the maximum price, MIFIC uses a reference base price as the

main parameter, adding a reasonable global margin for each participant in the supply chain. These margins are defined based on the commercial characteristics of the product, as well as the national and Central American markets, and are formalised through a ministerial agreement. This process sets maximum wholesale and retail prices, encouraging price competition for the benefit of consumers. MIFIC, along with the Directorate of Consumer Rights Protection (hereinafter DIPRODEC for its acronym in Spanish), will continuously monitor compliance with pharmaceutical price control. It is possible to request an increase of the item's price to MIFIC.

Regarding medical devices (as defined by law), Nicaraguan legislation does not set forth a specific rule to determine the prices.

## **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.**

While mechanisms do exist to dispute conflicts arising from non-compliance or harm caused by third parties regulated or supervised by the authorities (see Q3), as well as caused by the supervisory/regulatory authorities themselves in matters related to healthcare financing and reimbursement as described herein, there is no evident trend of initiating litigation in these topics in Nicaragua. Litigation in this context remains relatively uncommon and underdeveloped.

Most litigated cases are related to insurance coverage by carriers, and they are usually resolved at the administrative phase before the regulator.

## **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.**

Currently, the provisions governing healthcare financing and reimbursement are relatively limited compared to other jurisdictions. To the best of our knowledge, there is currently no publicly available information regarding significant developments or trends in healthcare financing and reimbursement for the coming years. Based on research, and considering the nature of Nicaragua's healthcare system, a trend – or at least the intention of the state – is to develop and improve accessibility to healthcare within the public sector.