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Current Status and Recommendations on Maternity Insurance in the Social Insurance System in Vietnam

¹ Nguyen Nu Quynh Trang, ² Mai Thi Hong Quyen
^{1,2} University of Labour and Social Affairs, Hanoi, Vietnam

Corresponding Author: Nguyen Nu Quynh Trang

Abstract

Maternity benefits play an important role in protecting women against the risks of loss of income and health from pregnancy and childbirth. In Vietnam today, maternity benefits are considered quite generous in terms of leave time and benefit rate. However, statutory and actual maternity coverage is very limited. From the collected secondary data sources, the author used document research methods, statistical analysis methods, and comparison and contrast to analyze the collected data. Since then, the author has

systematized the theoretical basis and current situation of maternity benefits in the social insurance system in Vietnam; Proposing a number of recommendations to improve the maternity insurance policy in the direction of expanding the scope of application of the maternity regime, improving the effectiveness of the maternity regime in society; Exercise the right to maternity protection of all women in Vietnam.

Keywords: Maternity Regime, Social Insurance, Vietnam

1. Introduction

Maternity insurance plays an important role in protecting women against the risks of loss of income and health from pregnancy and childbirth. This regime is always an important content recognized and regulated by international law and the laws of countries around the world. According to the ILO Maternity Protection Convention, 2000 (C 183) ^[10], maternity protection provisions should apply to all women. In Vietnam today, maternity benefits are considered quite generous in both leave time and benefits. However, this policy only applies to employees participating in mandatory social insurance (the benefit rate only accounts for about 30% of the workforce); not yet applicable to employees participating in voluntary social insurance. The coverage of maternity insurance is still very limited. According to current social insurance laws in Vietnam, women who are not covered by mandatory social insurance do not have access to this basic and important labor right. The voluntary social insurance system does not have a maternity benefit, so it also leads to inequality in the benefits of insurance beneficiaries between the two contribution systems. Statistics show that up to 60% of Vietnamese women who give birth do not enjoy maternity policies. This shows that there is currently a large "gap" in maternity insurance policy in Vietnam.

Based on the standards of the International Conventions on Maternity Protection, in this article, the author has analyzed the current status of maternity benefits in the social insurance system in Vietnam today and proposed some recommendations aimed at expanding the coverage of maternity insurance, ensuring the rights of workers, especially female workers. The author used a secondary data collection method; Main sources include documents from the International Labor Organization, a number of related publications on maternity protection, previous research works related to maternity insurance regimes, annual work results report of Vietnam Social Security, and legal documents that serve as the basis for the implementation of maternity insurance in Vietnam. From the collected secondary data, the author used methods of statistical analysis, synthesis and comparison, and a systematic approach. Based on that, the author analyzed and evaluated the current status of maternity insurance in the social insurance system in Vietnam, as a basis for the recommendations given in this article.

2. Theoretical Basis

Maternity benefits is a regime that appeared very early in the system of social insurance benefits. Right from the first meeting and throughout its operation, the World Labor Organization (ILO) has issued many conventions and recommendations showing concern for, and protecting the health and rights of, female workers. Specifically: Convention No. 3 of 1919,

Convention No. 103 of 1952, Convention No. 102 of 1952 and Recommendation No. 95 (amended in 1952), Maternity Protection Convention No. 183 (2000) ^[10]. Maternity insurance is one of three important social insurance regimes recognized by the ILO and stipulated in Article 2 of Convention 102 (1952) ^[9]. The purpose is to ensure that female workers and their newborns receive necessary care and that a sufficient standard of living is protected for mothers and their children during the period when the mother gives birth and has to take leave from work; accordingly, these conventions have fixed the duration of maternity leave, allowances, and medical care. The ILO has promoted maternity protection as a fundamental labor standard since the Organization's founding in 1919, and since then member countries have adopted a set of legal provisions covering broader benefits for workers and ensuring broader rights for working mothers. However, practice has shown that many groups of women (including those in the informal economy, family workers, and self-employed workers) are only guaranteed little or not at all. Maternity insurance is always an important content recognized and regulated by international law and the laws of countries around the world. Currently, maternity leave is regulated by law in most countries around the world. Depending on the economic, political, and social characteristics of each country, this regime is regulated differently in terms of leave time, allowance level, and eligibility conditions... According to the provisions of the ILO's international conventions (especially Convention 102 in 1952) ^[9], the maternity insurance regime is designed with minimum standards on eligibility conditions, benefit period, and benefit level. According to Article 43 of ILO Convention 102, subjects protected by maternity benefits include all women who are salaried workers with a minimum participation of 50%; or all economically active women permanently residing in the country with a minimum participation of 20%; or the entire permanent population in the country with a minimum participation of 50%. For countries whose economies and medical facilities are not sufficiently developed and whose ratified declarations have not fully implemented the recommendations under Convention 102, protection includes workers who work salary but at least 50% of the people working in industrial establishments employing at least 20 workers. In most countries, the protected subjects of maternity insurance are people of working age who participate in social insurance when they meet the conditions to enjoy that country's maternity insurance regime. According to Article 47 of ILO Convention No. 102, "Case of protection includes pregnancy, childbirth and its consequences, and interruption of income arising as prescribed by national law". At the same time, to avoid abuse of the maternity benefit regime, it is possible to add a regulation on the condition for receiving maternity benefits to have a minimum period of participation in social insurance, called social insurance seniority. Although the regulations are different, the laws of different countries are similar in terms of the intended purpose of maternity insurance. That is through partially offsetting increased costs during pregnancy, childbirth, raising newborns, implementing contraceptive measures, and maternity insurance to keep income balanced, and creating physical stability, and health protection for workers and infants.

In Vietnam currently, two maternity policies are being applied: Maternity benefits paid from the social insurance fund according to Social Insurance Law No. 58/2014/QH13 and maternity benefits paid from the State budget according to Decree No. 39/2015/ND-CP. Within the scope of this article, the author only focuses on analyzing and clarifying the content of maternity benefits in the social insurance system in Vietnam. Due to many amendments and supplements, the maternity insurance regime in Vietnam is increasingly complete, complete, and more suitable to real life, meeting legal rights. At the same time, it also demonstrates special preferential policies for female workers. According to the provisions of the law on social insurance, it can be understood that maternity insurance is one of the regimes of social insurance. Includes State regulations to ensure income and health for female workers when pregnant, raising children, and for workers in general when adopting newborn children. The purpose of maternity benefits is to ensure income and a stable life for employees in general and female employees in particular when pregnant, giving birth, or raising children for a short period. It has an important position for employees, to support employees when they go through maternity or adopting a newborn child.

3. Results

Legal regulations on maternity insurance in the social insurance system in Vietnam

In the current social insurance system in Vietnam, maternity benefits are only implemented for compulsory social insurance. Maternity benefits are regulated in Section 2, Chapter III of the Law on Social Insurance No. 58/2014/QH13, including 12 articles (from Article 30 to Article 41), regulating subjects, conditions, time, and level of maternity benefits. Products; Maternity benefits for female surrogate employees and surrogate mothers; convalescence and recovery after pregnancy.

Regulations on beneficiaries of maternity insurance benefits

According to the provisions of Article 30 of the 2014 Law on Social Insurance, subjects applying for maternity benefits are employees including the following cases: People working under labor contracts with an indefinite term, labor contract with a fixed term, labor contract with a term from 1 full month to less than 3 months; officials and civil servants; defense workers, police workers, and people working in other cipher organizations; officers and professional soldiers of the People's Army; officers, professional non-commissioned officers, officers, technical non-commissioned officers of the People's Public Security; People who do cipher work are paid the same as soldiers; Enterprise managers and cooperative managers receive salaries (Article 30 of the 2014 Law on Social Insurance).

Regulations on conditions for maternity insurance benefits

According to the provisions of Article 31 of the 2014 Law on Social Insurance: For cases including female employees giving birth, female employees being surrogate mothers and surrogate mothers, and employees adopting children under 6 months old; The condition to enjoy maternity insurance is to pay social insurance for 6 months or more within 12 months before giving birth or adopting a child. In cases where

female employees give birth and have paid social insurance for 12 months or more, but when pregnant, they must take time off work to take care of the pregnancy as prescribed by a competent medical examination and treatment facility, they must pay social insurance for 3 months or more. During the 12 months before giving birth. For other groups of people (female workers with IUDs, male workers paying social insurance whose wives have given birth, etc.), the law does not stipulate the conditions for payment time of social insurance.

Regulations on maternity leave period

Time off for prenatal check-ups: According to the provisions of Article 32 of the 2014 Law on Social Insurance, during pregnancy, female employees are allowed to take leave from work to go for prenatal check-ups 05 times, 1 day each time; If you live far from a medical examination or treatment facility or the pregnant woman has a medical condition or an abnormal fetus, you will be entitled to 2 days off for each prenatal check-up. The time off from work to enjoy this benefit is calculated according to working days, excluding holidays, New Year holidays, and weekly days off.

Time off for miscarriage, curettage, or abortion: Article 33 of the 2014 Law on Social Insurance stipulates, in case of miscarriage, curettage, abortion, stillbirth, or pathological abortion, female employees are entitled to enjoy maternity leave as prescribed by a competent medical examination and treatment facility. The maximum time off work is prescribed as follows: 10 days if the pregnancy is under 5 weeks old; 20 days if the fetus is from 5 weeks old to under 13 weeks old; 40 days if the fetus is from 13 weeks old to less than 25 weeks old; 50 days if the fetus is 25 weeks or older. This maternity leave period includes holidays, New Year holidays, and weekly days off.

Time off to give birth: According to Article 34 of the 2014 Law on Social Insurance, female employees who give birth are entitled to 6 months of maternity leave before and after giving birth. In case a female employee gives birth to twins or more, from the second child onwards, for each child, the mother is entitled to 1 additional month of leave. The maximum period of maternity leave before giving birth must not exceed 2 months. In addition, the 2014 Social Insurance Law specifically regulates the leave period in cases of giving birth and the child dies, or giving birth and the mother dies (Clause 3 and 4, Article 34 of the Law on Social Insurance).

Maternity benefits for female surrogate employees and surrogate mothers: According to Article 35 of the 2014 Law on Social Insurance, Female surrogate mothers are entitled to benefits for prenatal check-ups, miscarriages, abortions, abortions, stillbirths or pathological abortions, and benefits for childbirth until the time the child is delivered to the surrogate mother; but do not exceed the specified time. In cases where from the date of birth to the time of delivery of the child, the period of maternity benefits is less than 60 days, the surrogate mother is still entitled to maternity benefits until the full 60 days. (Including holidays, New Year holidays, and weekly days off). The surrogate mother is entitled to maternity benefits from the time of receiving the child until the child is 6 months old.

Time off when raising a child: According to Article 36 of the Law on Social Insurance 2014, employees who adopt a

child under 6 months old are entitled to leave to enjoy maternity benefits until the child is 6 months old. In case both parents participate in social insurance and are eligible to enjoy maternity benefits according to regulations, only the father or mother will be entitled to take leave to enjoy the benefits.

Benefit period when using contraceptive measures: According to Article 37 of the 2014 Law on Social Insurance, when using contraceptive measures, employees are entitled to maternity benefits as prescribed by a competent medical examination and treatment facility. The maximum time off work is 7 days (for female employees with an IUD) or 15 days (for employees undergoing sterilization). Time off includes holidays, New Year holidays, and weekly days off).

Regulations on maternity allowance levels

There are two types of maternity benefits: Salary replacement benefits and one-time benefits. Depending on each specific case, employees are entitled to one or both of these types of benefits.

The maternity benefit level is specified in Article 39 of the 2014 Law on Social Insurance. Accordingly, if the employee is eligible to enjoy the maternity benefit according to regulations, the maternity benefit level is calculated as follows: The monthly benefit level is equal to 100% of the average monthly salary paid for social insurance for the 6 months before leaving for maternity leave. In case the employee has paid social insurance for less than 6 months, the maternity benefit level is the average monthly salary for the months in which social insurance has been paid. For prenatal check-ups and cases where a male employee who is paying social insurance when his wife gives birth is entitled to take leave from work and enjoy maternity benefits, the one-day benefit rate is calculated as the monthly maternity benefit rate divided by 24 days; The level of benefits when giving birth or adopting a child is calculated according to the monthly allowance according to regulations, in cases of odd days or cases of leave for miscarriage, abortion, stillbirth and cases of leave for IUD placement/ sterilization, the one-day benefit is calculated as the monthly benefit divided by 30 days.

One-time allowance when giving birth or adopting a child: According to the provisions of Article 38 of the 2014 Law on Social Insurance, female employees who give birth or employees who adopt children under 6 months of age are entitled to a one-time allowance for each child equal to 2 times the base salary. In the case of giving birth but only the father participates in social insurance, the father will receive a one-time allowance equal to 2 times the base salary in the month of birth for each child.

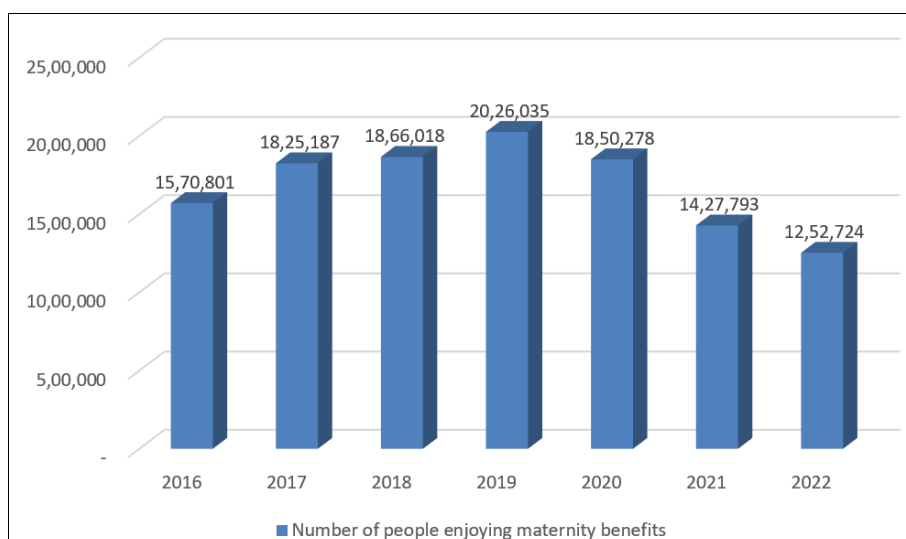
Nursing and recovering health after giving birth

Female employees whose health is still weak after receiving benefits for miscarriage, curettage, abortion, or stillbirth or after receiving benefits for giving birth according to regulations will be entitled to leave to recuperate and recover; Maximum leave is 10 days for female employees giving birth to twins or more, maximum leave is 7 days for female employees giving birth and requiring surgery, and 5 days for other cases. The one-day post-maternity convalescence and recovery allowance is equal to 30% of the base salary.

General assessment of maternity benefits in the social insurance system in Vietnam

It can be seen that the regulations on maternity benefits in the social insurance system in Vietnam today have many outstanding advantages. Beneficiaries of maternity benefits specified in the 2014 Social Insurance Law include pregnant female employees, female employees giving birth, and employees adopting children under 6 months old; female surrogate mothers and surrogate mothers; It is reasonable for workers to insert IUDs and perform basic sterilization measures and covers all cases. The minimum social insurance payment period to enjoy maternity benefits in case a female employee gives birth or an employee adopts a child is a reasonable regulation and has overcome the abuse of enjoying this benefit.; better ensure fairness among beneficiaries. The prescribed time off from prenatal check-ups has different lengths depending on whether the condition of a normal pregnancy or a pathological pregnancy is appropriate. The period of benefits for miscarriage, curettage, abortion or stillbirth has been differentiated depending on the age of the fetus. The higher the number of months of the fetus, the longer the employee's

leave is a reasonable rule and ensures fairness between cases. The period of maternity benefits upon childbirth is differentiated depending on the employee's working conditions and disability status. Based on such dividing factors is reasonable. In addition, the maternity benefit period is also applied to employees who give birth to 2 or more children in one birth or die after giving birth, or taking contraceptive measures; generally accepted by workers. The one-time allowance for giving birth or adopting a child is equal for all subjects regardless of the employee's salary. This regulation is reasonable because this is a subsidy to support employees to buy necessary items when the baby is born. The level of maternity benefits is set at 100% of the average monthly salary and wages paid for social insurance for 6 consecutive months before quitting work as above, which is reasonable and ensures fairness among beneficiaries. Implementing the provisions of the 2014 Social Insurance Law and guiding documents, the number of people receiving maternity benefits has continuously increased over the years. In the 6 years from 2016 to 2022, there have been over 11 million people receiving maternity benefits, specifically as shown in the following figure:



Source: Vietnam Social Security

Fig 1: Number of people enjoying maternity benefits in the period 2016 - 2022

4. Comments and Recommendations

Maternity insurance in Vietnam is considered to be widely available compared to other countries in the region and the world. With 26 weeks of leave paid at 100% of the insured's previous income, this benefit exceeds the ILO minimum standards set out in Convention 183 of 2000 (14 weeks at 2/3 of previous earnings); and includes the recommended period of 18 weeks under Recommendation 191 of 2000. However, maternity leave and benefits vary significantly between groups of women, depending on their work status. Currently, maternity benefits paid from the social insurance fund according to Social Insurance Law No. 58/2014/QH13 only apply to employees participating in compulsory social insurance; not yet applied to employees participating in voluntary social insurance. Thus, it can be seen that female workers who are not covered by mandatory social insurance (including informal workers) do not have access to this basic and important labor right. This shows a large "gap" in maternity policy in Vietnam. In the context of limited coverage of the social insurance system, the rate of informal

workers is relatively high compared to other countries in the world. In 2021, Vietnam has 33.6 million workers with informal jobs, (accounting for 68.5% of the total number of employed workers), of which there are more than 14.8 million informal female workers. Compared to formal workers, informal workers not only suffer more disadvantages due to having to work in precarious, temporary jobs without social protection; it is difficult to ensure a minimum standard of living for themselves and their families. This situation among women is even more worrying, more than 61% of female workers with informal jobs receive an income lower than the regional minimum wage (nearly twice as high as this rate among men). Women not covered by mandatory social insurance, including informal workers, often do not have access to maternity policies. This creates major challenges for the ability to protect workers in general and female workers in particular in the social insurance system in Vietnam. According to Hong Minh (2023) ^[5], a survey by the Vietnam Women's Union showed that: (i) When women are not entitled to

maternity benefits, to receive money to pay for future childbirth, many cases still engage in hard labor during pregnancy, leading to weak fetuses, stillbirths, and miscarriages; (ii) female workers often have to cut spending during pregnancy and childbirth or cope with the lack of income during maternity leave by withdrawing one-time social insurance, affecting social security at age. their old age later; (iii) if not entitled to maternity benefits, female workers have to return to work earlier, affecting both mother and child health and child malnutrition; (iv) From a family perspective, when women do not enjoy maternity benefits, it increases the economic burden on working husbands, many men have to work part-time and work overtime to have money to support their wives and children. They don't have time to care for and play with their children. The voluntary social insurance system does not have a maternity benefit, so this also leads to inequality in benefits between the two contribution systems. Based on the standards under the International Conventions on Maternity Protection and the practice of maternity benefits in the social insurance system in Vietnam today, the author proposes several recommendations as follows:

First, it is necessary to build and implement a multi-layered maternity benefit system. The first layer is the universal maternity allowance system paid by the State Budget for all female workers who cannot pay social insurance. The first layer is a universal maternity benefit that will provide basic income security for mothers who do not participate in social insurance, reducing the financial burden from social insurance contributions for households unable to contribute; contributing to increasing the level of maternity protection for employees, especially female employees, thereby increasing social insurance coverage. The second layer is a maternity allowance based on contributions (social insurance) that will replace lost income for parents participating in social insurance when they encounter maternity risks such as giving birth or adopt a child.

Second, it is necessary to expand voluntary social insurance regimes. Accordingly, it is necessary to add a maternity regime for employees participating in the voluntary insurance system. This is to create conditions to ensure that female workers working in the informal sector, with different income levels, can participate and enjoy maternity benefits according to the provisions of the law. This not only helps correct the current imbalance between the voluntary and mandatory systems but also increases the ability to attract young self-employed couples who are thinking about having children to join the social insurance system. Adding maternity benefits to voluntary social insurance is necessary, contributing to connecting social security policies and policies on economics, employment, and childcare services.

Third, there needs to be a support mechanism for businesses that employ pregnant female workers, ensuring that the support mechanism compensates for the disadvantages they suffer. This is to create incentives for businesses to employ female workers and pregnant female workers and also limit cases where businesses refuse to employ female workers of childbearing age and time. Along with that, it is necessary to strengthen propaganda and education measures so that female workers know their rights, including the right to be protected and prioritized during pregnancy. The content of propaganda and education is the specific rights and benefits in legal regulations of female workers and pregnant female workers with many different forms of propaganda, suitable

for each subject and each type of work... Ensuring work and income for female workers during and after pregnancy is necessary; helps women have equal opportunities and equal treatment in the workplace; helps promote gender equality and empowers women. This is considered a right of employees and an obligation of businesses in practice.

5. Conclusion

Pregnancy and childbirth are particularly vulnerable times for female workers and their families. Since its establishment in 1919, the International Labor Organization (ILO) has recognized the importance of maternity protection and has promoted maternity protection as a basic labor standard. The ILO Maternity Protection Convention and Recommendation are aimed at all female workers; expand the scope of rights and benefits for working mothers to reduce health risks for themselves and their children. In the system of social insurance regimes, maternity benefits are considered a special regime. Maternity benefits, as well as social policies for female workers in general, not only create conditions for female workers to perform their motherhood functions well but also create conditions for female workers to perform social work well. In Vietnam today, maternity benefits are among the preeminent systems in the region in terms of leave time and benefit rate. However, there is still a limitation: Low coverage, only those participating in compulsory social insurance are entitled to maternity benefits, with the current beneficiary rate only accounting for about 30% of the workforce. This study systematizes the theoretical basis and current situation of maternity benefits in the social insurance system in Vietnam; and proposes a number of recommendations to improve the maternity insurance policy, expand the scope of application of the maternity regime, and improve the effectiveness of the maternity regime; gradually realize the maternity protection rights of all women in Vietnam.

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