

Social Security

08



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08 Social Security

In Chile, there is a set of laws, policies, and social protection measures that form part of the social security system. This system is aimed at safeguarding individuals against situations that may prevent them from generating income at various stages and during different life events, such as old age, unemployment, illness, disability, workplace accidents, maternity, or the loss of a family provider.

1. Components of the Chilean Social Security System

Chile's current social security system includes the following components:

- Pension system, covering old age, disability, and survivors' benefits.
- Healthcare system, which provides coverage in cases of illness and pregnancy.
- Workplace accidents and occupational disease insurance, regarding health and safety at work.
- Unemployment insurance, for the contingency of unemployment.

2. Pension System: Individual Capitalization System

In 1980, Chile established an individual capitalization system for pensions through Decree-Law No. 3.500. Under this system, workers are required to deposit a portion of their taxable salary each month into a personal account managed by a pension fund administrator (AFP).

The purpose of these funds is to finance the future pension that the individual will receive upon retirement and, in case of death, to provide a survivor's pension for their beneficiaries.

Every worker must sign up with an AFP, which is a process they must complete personally, and can freely choose their preferred pension fund administrator.

For workers with an employment contract, the employer is responsible for deducting the monthly pension contribution from the employee's salary and depositing it into their individual AFP account.

Currently, the mandatory pension contribution to individual accounts is set at 10% of an employee's monthly taxable salary, with an upper limit of 84.3 UF (Chilean inflation-linked

units of account, approximately US\$2,500) for 2024, which is adjusted annually. Additionally, AFPs charge a management fee that varies between approximately 0.47% and 1.54%.

Due to the risk of disability or death among workers, AFPs are also required to collectively contract disability and survivor's insurance for their members. This insurance is funded by employers through an additional contribution or a fee charged by pension fund administrators. From October 1, 2023, the uniform rate that employers must pay for this insurance is 1.47% of the employee's taxable salary.

3. Healthcare System: Mixed System

Currently, the Chilean healthcare system is mixed. Under this system, people can choose to contract public health insurance, administered by the National Health Fund (FONASA), or private health insurance, provided by private health insurance companies (ISAPRE).

The healthcare contribution is 7% of each member's monthly taxable income, with a cap of 5.901 UF (Chilean inflation-linked units of account, approximately US\$170) for 2024.

For workers with an employment contract, the aforementioned amount must be withheld and paid monthly by the employer to FONASA or to the ISAPRE selected by the employee.

4. Workplace Accidents and Occupational Disease Insurance

Law No. 16.744 regulates workplace accidents and occupational disease insurance, which protects all employed and self-employed workers against accidents that occur as a result of or in connection with work and diseases directly caused by performing their duties.

This insurance is financed through a basic contribution of 0.9% of taxable salary and an additional contribution differentiated based on the activity and risk level of the company, which cannot exceed 3.4% of taxable salary.

5. Unemployment Insurance

Law No. 19.728 establishes mandatory unemployment insurance for workers with employment contracts governed by the Labor Code, in the event that their employment relationship is terminated for any reason.

The insurance is managed by the Unemployment Fund Administrator (AFC). Each AFC member has an individual unemployment account, funded through different contributions:

- The individual contribution of workers with an indefinite contract is 0.6% of their taxable salary. Workers with a fixed-term contract or a contract for specific works or services are not required to make contributions.
- The employer's contribution is 2.4% of the taxable salary of employees with an indefinite contract. Of this contribution, only 1.6% is credited to the worker's individual account, while the remaining 0.8% goes into a collective fund known as the Solidarity Unemployment Fund. It should be noted that the 1.6% employer contribution can be deducted from severance pay for years of service to which employees with indefinite contracts are entitled when they are dismissed due to "the needs of the company". In the case of workers with a fixed-term contract or a contract for specific works or services, the employer's contribution is 3%. The cap for calculating these percentages is 126.6 UF (Chilean inflation-linked units of account, approximately US\$3,600) for 2024.
- For the Solidarity Unemployment Fund, the State also makes an annual contribution.

In the case of unemployment, the individual can withdraw the funds in monthly installments. If there are no funds available, they can access the Solidarity Unemployment Fund provided that they meet the termination conditions and the established contribution requirements.

Requirements to claim unemployment insurance:

- Be unemployed, with the employment contract having been terminated for any reason.
- If the employment contract was indefinite, the worker must have made at least 10 monthly contributions from the time of joining (or from the last unemployment insurance claim) until the month in which the employment relationship was terminated. The contributions can be continuous or discontinuous and from one or more employers.
- If the employment contract was for a fixed term or for specific works or services, the worker must have made at least six monthly contributions from the time of joining (or from the last unemployment insurance claim) until the month in which the employment relationship was terminated. The contributions can be continuous or discontinuous and from one or more employers.

6. Maternity, Paternity, and Family Life Benefits

The law grants rights to leave, subsidies, and job protection to all pregnant workers. It also guarantees working parents leave following the birth of their child, as well as rights and subsidies for male or female workers who are responsible for the care of a child, among other benefits.

All employed or self-employed workers who make pension contributions, from both public and private companies and institutions, are entitled to these benefits.

The employer cannot make the hiring, renewal or continuation of a contract, or promotion conditional on whether an employee is pregnant, nor can it request any certificate or examination to verify said condition.

a. Maternity Protection:

This is the protection that is granted to pregnant employees, and its aim is to ensure the stability of their employment from the beginning of the pregnancy up to one year after the end of the postnatal leave period.

This protection includes the right not to be dismissed by the employer, unless with authorization from the competent

judge, who can only grant dismissal for the following reasons: expiration of the agreed term, completion of the work or service that gave rise to the contract, or actions attributable to the worker's behavior.

In the event that the father makes use of parental leave, he will also receive job protection for a period equivalent to twice the duration of his leave, starting 10 days before the beginning of the leave period. However, the father's job protection cannot exceed three months.

b. Maternity Leave:

Every female worker is entitled to the maternity leave outlined below, regardless of the start date of their employment.

It is important to note that this maternity leave entitles the worker to receive a subsidy, which is administered by the health insurance institution with which they are registered (ISAPRE or FONASA).

- Antenatal leave: 6 weeks before the birth.
- Postnatal leave: 12 weeks after the birth.

- **Paternity leave:** The father is entitled to five days of paid leave, which can be taken continuously from the date of the child's birth, or distributed during the first month of their life. Fathers who adopt have the same right, starting from the resolution granting them care of or accepting the adoption of the child.
- **Additional postnatal leave:** At the end of the postnatal period, female employees are entitled to further postnatal leave of 12 additional weeks.

However, female employees may choose to return to work for half of their working day during this period, in which case the leave will be extended to 18 weeks, receiving 50% of the legally established subsidy.

If both parents are employed, either of them, at the mother's discretion, may take additional postnatal leave for the number of weeks indicated by the mother. The weeks used by the father must be during the final period of the postnatal leave, and will entitle them to the same subsidy as that granted to the mother.

If the mother decides to transfer weeks to the father, they can transfer a maximum of 6 full-time weeks. However, if the mother decides to take 18 weeks part-time, they can transfer a maximum of 12 weeks part-time.

c. Daycare:

When 20 or more women work in a company, whatever their age or marital status, the company has the obligation to provide a place where female employees can feed their children under two years of age and leave them while they work.

The employer may fulfill this obligation in various ways:

- By creating and maintaining a daycare center that is attached and independent from the workplace.
- By building or providing and maintaining communal daycare services with other establishments in the same geographic area.
- By paying daycare expenses directly to an establishment that is recognized by the National Board of Preschools (JUNJI).

The right to daycare is valid for children aged between 84 days and 2 years.

This right is generally exercised by the mother. However, it may be exercised by the father in the event of death of the mother or when the mother is not personally responsible for the care of the child under two years of age due to a court ruling.

d. Feeding Permission:

Female employees are entitled to have at least one hour a day to feed their children under two years of age, which beneficiaries can use in any of the following ways:

- At any time during the working day, established by mutual agreement with the employer.
- By requesting that the period be divided into two portions of half an hour each.
- By postponing or advancing by half an hour, or an hour, the start or end of the work day.

In the event that the father and the mother are both employed, both parents can agree that the father will exercise this right. Employed fathers may also exercise the aforementioned right if they are responsible for the child's care through a court ruling, or if the mother is deceased or unable to exercise this right.

This right is not subject to any type of deduction, and the time used to feed the children is considered as one hour worked.

More information on this chapter is available at:

- www.dt.gob.cl
- www.suseso.cl
- www.superdesalud.gob.cl
- www.afc.cl

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