

CHAPTER I

THE GENERAL PATTERN OF SOCIAL SECURITY IN CHILE

A. The Main Programmes

The first manifestations of Social Security¹ in Chile date back to the 1920s. It was in 1924 in fact that the Workers' (or Mandatory) Insurance Fund came into being, the institution which preceded the Social Insurance Service. In 1925, coverage was extended to employees with the creation of the Private Employees' Fund (EMPART) and that of Public Employees and Journalists (CANAEMPU). Since then, Social Security coverage has been growing, both from the point of view of the total population that it protects and with regard to the risks and social contingencies that it covers. Thus the pension system analysed in this book forms part of a whole set of programmes or sub-systems for social protection, some of the most important being the following: sickness and maternity, industrial accidents and occupational diseases, family subsidies and welfare services.

This section provides a synopsis of the contingencies covered by each programme, the benefits they offer, the organization of the institutions, methods of financing, management and finally, regulation and oversight.

1. The Sickness and Maternity Programme

Under the terms of Law N° 18.469, the exercise of the constitutional right to health protection includes free and equal access to actions designed to promote, protect and recover health, as also those directed towards patients' rehabilitation.

The beneficiaries of the system of health services are entitled to the following benefits:

- a) *Preventive medical examination* for prompt investigation of tuberculosis, sexually transmitted diseases, glaucoma, cancer, diabetes, heart conditions, hypertension, chronic kidney failure and other conditions determined by the Ministry of Health, where early diagnosis and treatment may prevent an irreversible outcome;
- b) *Curative medical attention*, including consultations, tests, diagnostic and surgical procedures, hospitalisation, obstetric attention and

¹ Set of programmes designed to cover certain situations of basic need among the population.

treatment, plus the medicaments contained in the National Formulary and any other health attention and action that may be established;

- c) Dental treatment; and
- d) Ante-natal, intra-partum, and perinatal care, plus care of the neonate and periodic checks for children up to the age of six.

The programme also includes those promotional, protective and other actions concerning individuals or the environment which are set out in the programmes and plans issued by the Ministry of Health.

Finally, affiliated workers, whether employed or self-employed, who absent themselves due to a total or partial inability to work arising from non-occupational illness or non-industrial accident, are entitled to receive sickness benefit. This consists of an amount of money which replaces the wage while the worker is on sick leave.

At an institutional level, coverage of health benefits is channelled through the National Health Fund (FONASA), which is a public service, and the Social Security Health Institutions (ISAPRE), which are private bodies. Those people who belong to the system of health benefits are entitled to choose the institution to manage their health contributions. FONASA offers two health plans, known as the Institutional Option and the Free Choice Option. Destitute members of the population receive health benefits through FONASA and are attended in the establishments belonging to the National Health Services System under the Institutional Option. Meanwhile, the Social Security Health Institutions offer a wide range of health plans.

From the financial point of view, FONASA is a collective insurance, which in December 2001 was providing coverage for 67.4%² of the country's total population. Its members are classified in groups according to their income level and the percentage of the value of the benefits covered by the insurance varies according to the member's income and the option that he/she has chosen. The main sources of income of the Fondo Nacional de Salud are the contributions of its members, fixed at 7% of taxable income, with an upper limit of 60 accounting units (UF)³, and the input from the state.

The Social Security Health Institutions are legal entities, registered with the Superintendency of Social Security Health Institutions, offering coverage for health benefits which is charged to the contribution

² The percentages of coverage quoted in this section were taken from an estimate made by the Fondo Nacional de Salud, published in www.fonasa.gov.cl

³ The UF (Unidad de Fomento) is an accounting unit of constant buying power.

established by the law for this purpose. This is equivalent to 7% of the worker's taxable income, or a higher rate agreed between the worker and the ISAPRE. In December 2001, the ISAPRE system was providing coverage for 19% of the total population.

The oversight and control of the National Health Fund are carried out by the Ministry of Health and the Office of the Comptroller General of the Republic, whilst the ISAPRE are regulated and supervised by a specialized Superintendency.

2. The Industrial Accidents and Work-Related Illnesses Programme

The contingences covered by this programme are as follows: accidents occurring in the workplace or on the direct journey to or from the worker's home, and illnesses arising as a result of exercising a particular profession. The coverage also extends to students on practice and workers who are involved in training activities. Accidents suffered by trade union officials due to, or while engaged in, the performance of their union duties are also covered under this regime.

The benefits provided are as follows:

- Money benefits to workers temporarily or permanently disabled as a result of an accident or work-related illness and payment of widow's and orphans' pensions to the beneficiaries of a deceased worker.
- Medical and surgical attention, hospitalisation, medicaments, prostheses, orthopaedic equipment and rehabilitation.
- Systematic action to prevent industrial accidents or work-related illnesses from occurring.

The benefits of this programme are financed mainly by a charge against a basic contribution equivalent to 0.95% of workers' salaries, plus an additional contribution which is differentiated depending on the risk associated with the economic activity and company, and which may be up to 3.4% of salaries.

Companies may choose to insure their workers under two regimes: the employees' benefit societies and the system of delegated administration. At the same time, the Government offers a third institutional alternative for managing this social insurance, through the Institute of Social Security Normalization (INP).

The employees' benefit societies are non-profit organizations, led by an evenly balanced board of workers and employers, whose aim is to offer affiliated workers the benefits defined in the law.

Meanwhile, companies that fulfil the legal requirements and obtain authorization from the Superintendency of Social Security may act on behalf of their own workers as delegated administrators of the industrial accidents and work-related illnesses insurance, except insofar as pensions are concerned.

In December 2001, a total of 3.4 million workers were affiliated to the regime, equivalent to 57.3% of the workforce. The distribution by type of administrator is as follows:

Table N° I.1
WORKERS COVERED BY LAW N° 16.744

Administrator	Contributing workers	Proportion of the workforce %
Benefit Societies	2,584,827	43.5
INP	789,057	13.3
Delegated Administrators	30,879	0.5
Total	3,404,763	57.3

Sources: Social Security Statistics, Superintendency of Social Security 2001 and National Institute of Statistics.

3. The Family Benefits Programme

The programme of family benefits covers a collection of contingencies associated with family development. The benefits provided by this programme are family and maternity allowances, the leave granted to a mother to take care of a child under a year old and the ante and post-natal rest periods.

The family allowance consists of a monthly sum of money, paid for each legally recognized dependant⁴, which varies according to the income of the head of household. The amounts are given in the table below:

⁴ The main originators of family allowance are: the worker's dependent wife, disabled husband, children under the age of 18 and unmarried children above that age if they are studying, up to 24 years of age, a widowed mother, and parents, grandparents and great grandparents of the worker who are over 65 years of age.

Table N° 1.2
VALUES FOR FAMILY ALLOWANCES

Monthly Earnings Bands	Value per Dependant
Up to \$ 104,145	\$ 3,452
\$ 104,146 to \$ 210,450	\$ 3,358
\$ 210,451 to \$ 328,262	\$ 1,094
Over \$ 328,262	\$ 0

During the year 2001, an average of 2,905,623 family allowances were paid each month, implying an expenditure annual equivalent to 0.21% of the GDP. This benefit is financed with government funds via the Single Fund for Family Benefits. Those involved in the payment of benefits in this programme are the INP, the Family Allowance Compensation Funds (Cajas de Compensación), centralized and de-centralized public institutions, the Pension Fund Administrators and Life Insurance Companies.

In the case of a serious illness in a child less than one year old, the working mother is allowed leave of absence, on condition that she presents her employer with a medical certificate as proof of the situation. During the period in which the working mother is making use of this leave at the expense of the Single Fund for Family Benefits, she receives a transfer in money which replaces her income. During the year 2001, 117,423 subsidy payments began in this category, adding up to a total of 3.3 million days of subsidy paid, equivalent to 0.05% of the GDP.

At the same time, women are entitled to receive a subsidy during the ante- and post-natal rest periods, to compensate for their wages while they are not working. The ante-natal rest period lasts for 6 weeks before the birth and the post-natal period for 12 weeks after the birth.

During the year 2001, 117,104 subsidy payments were begun in this category, adding up to a total of 7.1 million days of subsidy paid. This is equivalent to 0.10% of the GDP.

All the economic benefits listed above are financed with government funds assigned for the purpose to the Single Fund for Family Benefits managed by the Superintendency of Social Security.

4. Welfare Pensions

The programme of welfare pensions, known as PASIS, was set up by Decree-Law N° 869. Its purpose is to provide pensions for people who have no income of any kind or where their income is less than 50% of

the minimum pension, and where, in addition, they come into one of the following categories: (i) over 65 years of age, (ii) disabled over 18 years of age and (iii) mentally handicapped.

The provision of these benefits is prioritised by selecting the beneficiaries according to the details given on the CAS-2⁵ record, and they are provided for as long as the beneficiary remains in the situation which originally gave rise to the granting of the benefit.

5. The System of Retirement, Disability and Survivorship Pensions

The System of Retirement, Disability and Survivorship Pensions is managed by the Pension Fund Administrators; the INP, which includes most of the former Social Security Funds (Cajas de Previsión) from the Old System; the Social Security Department of the Chilean Police Force and the Armed Forces Social Security Fund.

The pensions scheme managed by the INP will terminate when it finishes paying pensions to those workers who decided to remain within it when the AFP System was created.

The salient features of the Pension System based on Individual Capitalization, which is the main subject of this book, will be described in detail in the following chapters.

B. Unemployment Insurance

The Unemployment Insurance is a new Social Security instrument designed to protect workers in the event of unemployment. It was brought into being by Law N° 19,728, which was published in the Official Gazette on 14th May 2000.

1. Coverage

The aim is to protect the worker who is facing unemployment, and support his/her efforts to find a new job and re-insert him or herself into productive life, guaranteeing financial resources, training and work information in order to achieve this.

It consists of a mandatory unemployment insurance on behalf of those employed workers governed by the Labour Code who are beginning or restarting work after the law came into force.

⁵ The CAS-2 Record is an instrument for focalizing social expenditure. It is used in order to enable subsidies to be assigned in the best possible way.

It will not apply in the case of domestic workers⁶, those with apprenticeship contracts, those under 18 years of age and pensioners, except in the case of those receiving partial disability pensions.

2. Mixed Design: Savings and Solidarity Fund

Its design combines a mandatory savings scheme based on Individual Unemployment Accounts which are the property of the workers, with the creation of a Solidarity Fund which will function as a source of financing to complement individual saving and ensure that benefits are paid while the worker is unemployed.

The Unemployment Insurance therefore has two components:

- *The System of Individual Unemployment Accounts.* Constituted on the basis of monthly contributions from employers and employees, and belonging to the employee.
- *Unemployment Solidarity Fund.* Financed with a proportion of the total employers' contribution and government resources, this works as a complement to the individual accounts system, in order to guarantee financing for up to 5 months for people who have been dismissed as a result of company needs, misadventure or force majeure.

3. Sources of Funding

The Insurance is funded in the following way:

- i. 0.6% of taxable wages, paid by the worker.
- ii. 2.4% of taxable wages, paid by the employer.
- iii. A State contribution amounting annually to 225,792 Monthly Tax Units⁷ (UTM) when the system is running fully, to be paid in 12 monthly instalments of 18,816 UTM.

During the first year, the State contribution will be 32,256 UTM, which will be readjusted gradually according to the proportion of the workforce covered by the Insurance, until the amount stated in letter iii. is reached.

For all legal purposes, the contributions referred to in letters i. and ii. will count as social security contributions.

The contributions will be calculated up to a maximum wage equivalent to 90 UF as of the last day of the month prior to the payment⁸.

⁶ These have their own system of protection via compensation savings accounts.

⁷ Unit of constant purchasing power.

⁸ If the worker is employed by more than one employer, this upper limit is applicable to each contractual relationship.

The worker's contribution (0.6%) and a portion of the employer's (1.6%) are paid into a personal account belonging to each member to be opened with the Administration Company (AFC). This will be called the "Individual Unemployment Account". These contributions have to be paid for a maximum period of eleven years in each contractual relationship. The resources accumulated in this account, whether from contributions paid by the employer or by the worker, are the property of the latter and may only be withdrawn in cases of termination of work contract, death or retirement.

The remaining 0.8% of the employer's contribution and the input from the State will go towards financing the benefits chargeable to the Unemployment Solidarity Fund.

4. Benefits

a. Chargeable to the Individual Unemployment Account

To obtain benefits chargeable to the individual unemployment account, the worker must fulfil the following requirements:

- i. The work contract must have been terminated for one of the reasons listed in articles 159 (mutual consent, resignation, death, misadventure or force majeure), 160 (dishonesty, forbidden negotiations, absence, neglect of work, material damage and serious non-compliance) and 161 (dismissal due to company needs) or due to the application of clause one of article 171 (indirect dismissal), all of the Labour Code.
- ii. At least 12 monthly contributions, whether continuous or otherwise, must have been recorded in the Individual Unemployment Account since joining the Insurance scheme or since the date on which the final remittance accrued to which he/she would have been entitled according to this law.

In other words, this means the creation of an "unconditional" benefit, and in the case of dismissal due to the needs of the firm, this payment is established as a complement to compensation for years of service.

Workers are entitled to make as many monthly withdrawals from their Individual Unemployment Account as years of contributions, plus fractions of over six months, registered since joining the Insurance scheme or since their last unemployment withdrawal, in both cases with a limit of five withdrawals.

In the case of workers entitled to more than one withdrawal, the amount of the first of these will be determined by dividing the balance

accumulated in the Individual Unemployment Account by the corresponding factor as given in the second column of the following table.

Table N° I.3
DETERMINING THE FIRST WITHDRAWAL

Right to N° of withdrawals	Factor
2	1.9
3	2.7
4	3.4
5	4

Where relevant, the amounts of the second, third and fourth withdrawals will correspond to 90%, 80% and 70%, with respect to the amount of the first withdrawal given in the table above. The amount of the fifth withdrawal will correspond to the balance remaining in the Individual Unemployment Account.

In the case of workers with entitlement to less than five withdrawals, the last withdrawal to which they are entitled will be the balance remaining in the Individual Unemployment Account.

The benefits cease when the worker is no longer unemployed. However, if the worker so wishes, he/she may make the withdrawal corresponding to the next month to which he/she would have been entitled, or may keep the funds in his/her individual account.

If the worker dies, the funds in the Individual Unemployment Account are paid to the person or persons that he/she has named at the Administration Company. If no person has been designated, they will be paid to the spouse, offspring or parents, in that order of precedence. Provided that the amount involved is no greater than 5 UTA, these payments will be made to the beneficiaries, simply by their supplying proof of their respective identities or marital status. If the amount exceeds that mentioned above, the beneficiaries must go through the effective possession procedure.

If the worker retires, he/she will be able to make a single withdrawal of all the funds accumulated in his/her individual account.

It is stipulated that unemployed workers who are receiving benefits under the Insurance are entitled to continue receiving medical attention and to retain their family allowance benefit.

b. Workers with short-term contracts for specific jobs

The contribution shall be paid only by the employer and will correspond to 3% of taxable wages. This is to be paid into the worker's Individual Unemployment Account in its entirety.

These workers will make one single withdrawal of all the funds accumulated in the Individual Unemployment Account once the termination of the contract is accredited and a minimum of six monthly contributions have been paid, whether continuously or otherwise, since joining the Insurance scheme or since the date on which the final remittance accrued to which he/she would have been entitled according to this law.

c. Benefits to be charged to the Unemployment Solidarity Fund

Those workers who fulfil the following requirements will be entitled to apply for benefits from the Unemployment Solidarity Fund:

- i. Those who have registered at least 12 monthly contributions to the Unemployment Solidarity Fund, continuously, in the period immediately preceding the dismissal;
- ii. Those who have been dismissed due to company needs, misadventure or force majeure;
- iii. The funds accumulated in the individual account are insufficient to provide an unemployment benefit according to the periods, percentages and amounts indicated in the following table; and
- iv. Those who are unemployed at the time of making the application.

Even so, a worker may not receive benefits chargeable to the Unemployment Solidarity Fund more than twice in a five-year period, and the right to receive the benefit will cease once the beneficiary finds new work.

The amount of the unemployment benefit during the months indicated in the first column shall correspond to the percentage of the average wages accrued by the worker in the twelve months prior to the dismissal, which is given in the second column. The benefit will be subject to the upper and lower values for each month as referred to in columns three and four, respectively:

Table N° I.4
BENEFITS GUARANTEED BY THE UNEMPLOYMENT SOLIDARITY FUND

Months	Average Percentage Wage for last 12 months	Upper Value	Lower Value
1°	50%	\$ 125,000	\$ 65,000
2°	45%	\$ 112,500	\$ 54,000
3°	40%	\$ 100,000	\$ 46,000
4°	35%	\$ 87,500	\$ 38,500
5°	30%	\$ 75,000	\$ 30,000

The upper and lower values given in the table above will be readjusted on the 1st February each year by 100% of the variation in the Consumer Price Index during the previous calendar year, as determined by the National Institute of Statistics.

The responsibility of the Unemployment Solidarity Fund comes into play once the resources in the Individual Unemployment Account are exhausted.

The total value of the benefits to be paid out against the Unemployment Solidarity Fund in a given month may not exceed 20% of the accumulated value of the Fund on the last day of the previous month. If it does exceed that percentage, the benefit to be paid to each member is reduced in proportion to the total value of benefits that the Unemployment Solidarity Fund can finance, in accordance with the 20% already mentioned.

There is no right to this benefit if the unemployed person turns down the job offered by the corresponding Municipal Labour Exchange without adequate justification, provided that it allows him/her to receive a wage equal to or greater than 50% of the final wage accrued in the previous employment.

Neither will the beneficiary have any right to this benefit if he/she turns down a training grant offered and financed by the National Training and Employment Service, and he/she will lose that already given, if such exists.

5. Administration of the Insurance

The Unemployment Funds Administration Company is responsible for providing services involving collecting contributions and State funding, depositing them in the Unemployment Solidarity Fund and the respective Individual Unemployment Accounts, updating these, investing the

resources and paying the benefits. The Management Company has no defined duration and will remain in existence until the administration contract expires.

By a process of public tender governed by the rules stated in the unemployment insurance law (Law N° 19,728) and according to the Conditions of Tender established by the Ministry of Work and Social Security and the Treasury Department, the management of the insurance was awarded to the Providencia group. This is a combine of Pension Fund Administrators which presented the bid with the lowest commission (0.6% per annum). These Administrators formed a company with an exclusive corporate purpose, called the Administradora de Fondos de Cesantía de Chile S.A., and the duration of the tender is ten years.

The main obligations of the administration company are:

- To ensure that the service will continue to be provided absolutely normally and without interruption (collection, information, payment of benefits).
- To carry out an actuarial study every two years to assess the sustainability of the Insurance.
- To keep separate accounts of the net worth of each Unemployment Fund.
- To invest the resources of the Unemployment Fund and the Unemployment Solidarity Fund in fixed income instruments.
- To send the necessary details about the beneficiary of the Insurance to the labour information office of the appropriate municipality or to that which is closest to his home.
- To keep a database of the workers covered by the insurance.

6. Other Stipulations

The benefits of this Insurance are paid to the worker on presentation of the release document, the notice of dismissal or the certification from the respective labour office, confirming the termination of the contract.

On proving the conditions that entitle them to payment of benefits from the Unemployment Solidarity Fund, members of the Insurance scheme must tell the Administration Company of their decision to receive benefits charged against that Fund, or to make use only of the funds accumulated in their Individual Unemployment Account. The option exercised is applicable for each of the withdrawals to which the member is entitled under this law.

There is a Users' Commission, made up of three employers' representatives and three representatives of the workers contributing to the unemployment insurance, with a university academic presiding. The function of the Commission is to be aware of the criteria used by the Administration Company in administering the Unemployment Funds.

Workers with a valid contract as of the date of the law have the opportunity to enter the Insurance scheme. If they choose to do so, they must then contribute to the Insurance. The worker must inform his/her employer of this decision with at least thirty days' notice. It will become effective on the 1st day of the month following the receipt of the notification, in accordance with the general instructions issued by the Superintendency on this matter.

The diagram below shows the main aspects of the unemployment insurance.

Figure Nº I.1
FLOW SCHEME



