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MODERN LAW

COMMENTARY ON LAW
NO. 22/2021

REGULATING HEALTHCARE SERVICES WITHIN THE COUNTRY

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COMMENTARY ON LAW NO. 22/2021 – REGULATING HEALTHCARE SERVICES WITHIN THE COUNTRY

CHAPTER 1
INTRODUCTION

The State of Qatar has implemented a new health insurance law that will impact not only Qatari nationals, residents, visitors, and tourists, but also employers, insurance companies, insurance brokers, claims management companies, healthcare providers, and recruiters.

As the related regulations and decisions continue to roll out, it is important that all parties to the insurance relationship are aware of their rights and obligations. Below we will review the latest updates to the health insurance environment in the State of Qatar.

CHAPTER 2

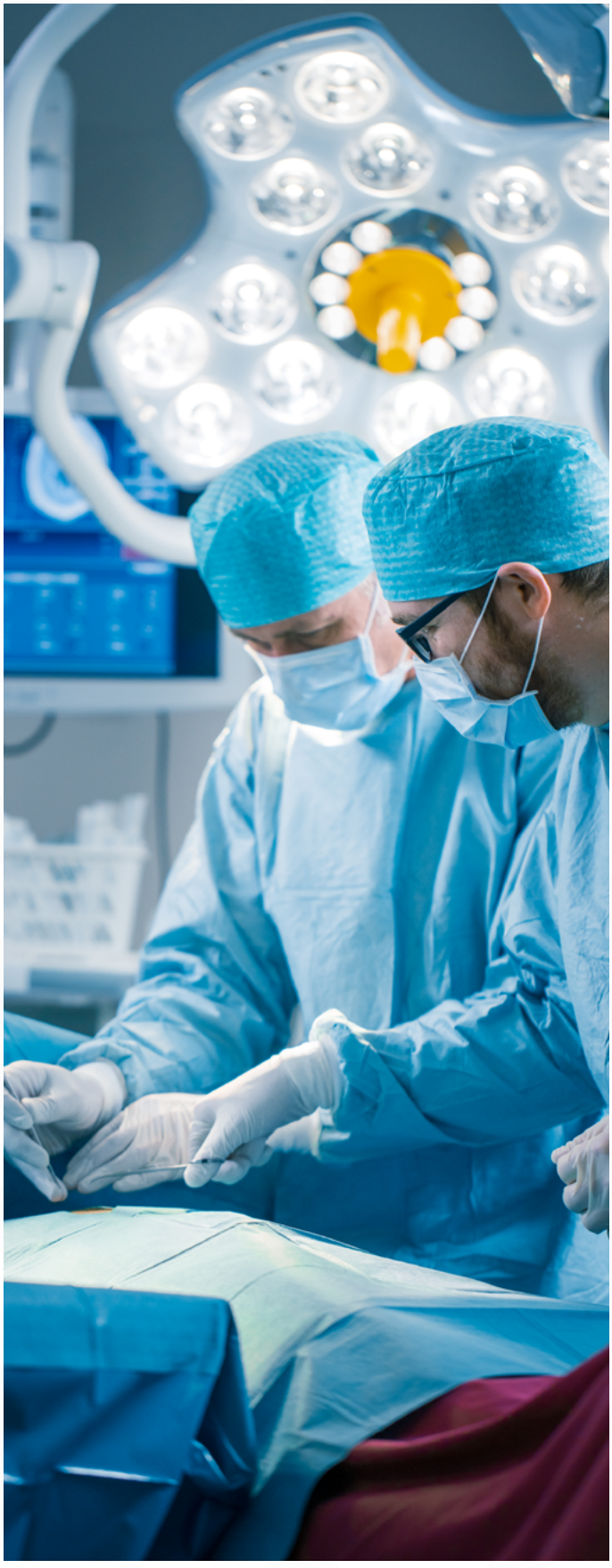
BACKGROUND

As Qatar continues to refine its system for the provision of healthcare services, the corresponding rules and regulations have undergone several significant changes over the years.

Citizens and long-time residents of Qatar may recall the social health insurance scheme that was implemented through Qatar Law No. 7/2013 (SEHA) which established the National Health Insurance Company. This law was implemented following the Emiri Decision No. 15/2012 which established the Primary Health Care Corporation (PHCC) under Qatar's Supreme Health Council. Together, these legislative regulations put significant responsibility on Qatar's government healthcare facilities.

In 2015, the SEHA insurance scheme was repealed, and the National Health Insurance Company liquidated, with the Supreme Health Council citing a desire to support the private insurance sector. Indeed, given the significant proportion of expats to Qatari citizens, a balance must be sought to ensure social obligations are fulfilled, but also to create an even distribution of healthcare responsibilities and burden across the public and private sectors to avoid overwhelm. This balance is pursued with the new Health Insurance Law, which also reinforces the economic growth and development goals of the Qatar National Vision 2030 by creating opportunities for expansion in the private insurance and healthcare fields, as well as improving the living and working conditions for expatriates in Qatar.

The new Law No. 22/2021 – Regulating Healthcare Services Within the Country abrogates not only the Law No. 7/2013, but also the several-decades-old Law No. 7/1996 - Organizing Medical Treatment and Health Services in the State.



CHAPTER 3

LAW NO. 22/2021 REGULATING HEALTHCARE SERVICES WITHIN THE COUNTRY

Issued on 18 October 2021, Law No. 22/2021 (the 'Health Insurance Law', the "Law") details the rights and obligations of each party to the health insurance relationship. The terms and conditions provided by this law are done so under the supervision of the Ministry of Public Health (the 'Ministry', the 'MOPH').

Subsequently, Qatar Ministerial Decision No. 8/2022 (the 'Implementing Regulations') was issued on 21 June 2022 and provides more insight into the application of Law No. 22/2021.

The following sections seek to summarize the information contained in both the Health Insurance Law and its Implementing Regulations and clarify its application to the extent possible at this point.

I. Health Card Holders vs. Insurance Card Holders

a. Health Card

Chapter 3 of the Law and Chapter 2 of the Implementing Regulations detail that the 'Health Card' is provided by Hamad Medical Corporation (HMC) or the Primary Healthcare Corporation (PHCC) to Qatari citizens with 10 years' validity and to others who will be determined by a decision of the Council of Ministers with 1 year's validity. Other groups that may be entitled to receive a Health Card will be detailed in a Ministerial Decision that has not yet been released.

Holders of the Health Card are entitled to free healthcare services at hospitals, primary healthcare centers, and other medical and treatment facilities run by the government

(Article 6 of the Law). Fees for issuing, renewing, and replacing the card are also yet to be announced.

With the exception of children up to the age of 1, any non-Qatari citizen who receives healthcare services at government facilities but who is not the holder of a Health Card will be required to pay full charges and fees for those services, according to Article 5 of the Implementing Regulations.

b. Insurance Card

The 'Insurance Card' differs from the Health Card in that it is issued by a private insurance company and signifies the enrollment of a beneficiary to an insurance plan. The Health Insurance Law obliges all expats and visitors in Qatar (except those who may be exempt via Cabinet Decision) to be enrolled in a private health insurance plan that covers at least the Basic Healthcare Services, the scope of which will be detailed in the following Section II (Article 8 of the Law).

II. The Health Insurance Policy

Firstly, there are different levels of insurance coverage that should be noted.

The mandatory health insurance for expatriates under the Health Insurance Law must cover Basic Healthcare Services, which include only the following (Annex 1 of the Implementing Regulations):

1. Medical examination through a healthcare service provider within the healthcare services network.
2. In-patient services (hospitalisation) and outpatient clinics for medical cases and surgeries.
3. Emergency and accident treatment services.
4. Medical care during pregnancy and delivery, and care for new-borns.
5. Other laboratory and diagnostic tests.
6. Ultrasound radiology, X-Rays, computerised tomography (CT Scan), and magnetic resonance imaging (MRI).
7. Organ transplantation.
8. Treatment of tumours.
9. Drugs and pharmaceuticals prescribed by the physician.
10. Physiotherapy and rehabilitative therapy.
11. Durable medical equipment.
12. Vaccinations prescribed by the physician, according to the applicable rules at the Ministry.
13. Returning the corpse of the deceased person to his country

Services outside the above scope are considered 'Additional Healthcare Services' and may be covered by the health insurance policy, though it is not mandatory (Article 1 of the Law, Article 10 of the Implementing Regulations).

Conversely, Annex 2 of the Implementing Regulations provides that the scope of mandatory coverage for visitors to Qatar is limited to emergencies and urgent medical assistance.

Further, per Chapter 12 of the Implementing Regulations, each insurance policy must include the following information:

- The names of the policyholder and beneficiaries
- The healthcare services covered by the policy
- The restrictions and exceptions to the insurance coverage
- The copayments and/or deductibles applicable to the beneficiary
- The services that require prior approval from the insurance company/claims management company
- The risks excluded from the insurance
- The maximum value and sub-limits of the insurance policy
- Starts and end dates of the policy
- Any other information deemed necessary by the competent department

III. Rights, Obligations & Penalties

a. General Obligations

In the interest of preventing repetition, the following points are relevant to all or several parties to the insurance relationship.

Firstly, Chapter 14 of the Implementing Regulations ensures that the records of all beneficiaries are subject to the rules of confidentiality. This obligation of confidentiality is not limited to just medical records, which are also subject to doctor-patient confidentiality, but all records held by any party to the insurance relationship. This includes the condition that no party shall have access to the medical records

of a beneficiary unless with the written consent of that beneficiary, or according to an order from a competent Court, Public Prosecution, based on a Ministerial decision, or upon request of the insurance company.

Further, all parties to the insurance relationship must comply with any requests or instructions from the Ministry of Public Health. All parties must also undertake to provide true and accurate information with respect to health insurance, and refrain from omitting or withholding any information necessary to facilitate the health insurance activities in good faith.

Article 23 of the Law applies to the insurance company, the claims management company, and private healthcare providers. This article prohibits insurance and claims management companies from owning, operating, or having shares in private health facilities, and vice versa. Per Article 27 of the Law, the penalty for violating this condition is imprisonment for up to 1 year, a fine of up to QAR 100,000, or both.

b. The Employer

In a notable change to insurance regulations in Qatar, employers shall be responsible for the provision of health insurance policies to his or her employees, and well as the spouses and children (up to 3 children under the age of 18) of his or her employees (Article 13 of the Law).

If both spouses are employed, then the employer of each is responsible for providing a health insurance policy to their respective employee. In such a scenario, the employer of the children's father is responsible for insuring the eligible children (Article 8 of the Implementing Regulations). It is currently unclear if the employer is required to provide coverage for more than one spouse concurrently.

To avoid any uncertainty regarding to whom the obligations prescribed to employers applies, Article 1 of the Law defines 'Employer' as 'The ministries, other government agencies, public bodies and institutions and every natural or legal person hiring employees or workers in return for a wage of whatever kind.'

This obligation begins from the date of the entry of the employee and/or the family member(s) into the country, or from the date of transfer of the employment (Article 24 of the Implementing Regulations).

Per Article 31 of the Implementing Regulations, the employer must continue providing health

insurance coverage to all employees and eligible family members until the employment or recruitment relationship has been terminated and the beneficiary's employment has been transferred. This means that, even if the employee has been terminated or has resigned, the employer must maintain health insurance coverage for that employee until his or her residence permit has been changed to a new employer.

Alternatively, if the employment relationship is terminated and the beneficiary does not transfer to a new employer, the employer is obligated to provide health insurance coverage until either

a) The expiry of the statutory residence period, or

b) The expiry of the insurance policy,

whichever is sooner.

To satisfy this obligation, the employer must conclude a contract with a registered insurance company for the coverage of his or her employees and the eligible family members, and to ensure the continuing validity of the contract through timely renewal and adherence to the terms therein (Article 25 of the Implementing Regulations).

The insurance premium must be paid by the employer, and it is not permitted for the employer to collect any costs from the beneficiary. This means that the cost of the premium shall not be deducted from the employee's salary, nor shall the employee be required to pay the premium or any portion thereof out-of-pocket (Article 32 of the Law). Further, Article 13 of the Law provides that, if the employer defaults on its obligations by not providing the necessary insurance or by failing to settle the due premiums, the employer shall pay the cost of any healthcare services obtained by the insured employee.

Upon the termination of the employment relationship of a beneficiary, the employer must notify the insurance company of such termination, in order to recover a portion of the insurance premium of that employee (Article 31 of the Implementing Regulations).

Per Article 32 of the Law, the penalty for an employer who fails to provide the necessary coverage to his or her eligible employees, fails to pay the necessary premium or who collects any amount of the premium from said employees shall be a fine of up to QAR 30,000, and the repayment of the due amounts. This penalty will apply for each person to whom the breach was committed.

c. Recruiter Obligations

According to Article 14 of the Law, the recruiter shall be responsible for providing health insurance coverage to those he or she recruits who are not included under the insurance coverage of the employer, starting from the date of entry of the individual into the country. The obligations of the recruiter are similar to those of the employer, including maintaining contract validity with the insurance company, duly completing the insurance applications, and covering healthcare costs incurred by recruited individuals who were uninsured due to recruiter default on obligations under the Health Insurance Law. However, though the law is somewhat unclear on this point, it does not appear that recruiters are legally obligated to provide health insurance to the family members of those he or she recruits (Article 26, point 1 of the Implementing Regulations).

If the residence permit of an eligible recruited individual expires without the transfer of employment to a new recruiter, then the recruiter must continue to provide health insurance coverage to that individual until either the expiry of the statutory residence period or the expiry of the health insurance policy, whichever is sooner (Article 31 of the Implementing Regulations).

Recruiters who fail to provide the necessary coverage according to the Law will be subject

to the same penalty as employers, as described in the foregoing section.

d. Beneficiary Obligations

In exercising the rights afforded to them by the insurance policy, the beneficiary shall also have the following obligations, per Chapter 6 of the Implementing Regulations:

- To refrain from abusing the benefits of the insurance policy or health insurance card (Article 16 of the Law)
- To submit reimbursement claims to the insurance company or claims management company within thirty days of receipt of the healthcare service (unless an extension can be justified)
- To provide any supporting information/ documentation requested by the insurance company within 30 days of the request thereof (unless an extension can be justified)
- To undergo free-of-charge medical examination or re-examination by a licensed healthcare practitioner if deemed necessary and requested by the insurance company, upon approval by the beneficiary

e. Visitor Obligations

Article 15 of the Law states that visitors to the State of Qatar are required to have valid health insurance coverage throughout the duration of their stay. This requirement can be fulfilled by presenting proof of international health insurance that covers the State of Qatar, or by paying the health insurance premium available to visitors, the cost of which is QAR 50 per month according to the Decision of the Minister of Public Health No. 17/2022.

The visitor must bear the costs of any healthcare services obtained that do not fall under the scope of their insurance coverage. If the insurance coverage expires due to failure of the visitor to make the necessary renewal, he or

she will be obligated to bear the full cost of any healthcare services received (Article 27 of the Implementing Regulations).

f. Insurance Company Obligations

Insurance companies in the State of Qatar must be licensed and registered by the MOPH. The necessary license and registration can be obtained by applying and providing the required supporting documents to the MOPH (Article 14 of the Implementing Regulations). Notably, this means that international insurance companies and others that are not duly licensed and registered in the country are no longer permitted to provide policies to residents of Qatar, whether directly or through an agent within the State.

In order to develop reliable and practicable policies, Article 17 of the Law provides that insurance companies must establish a 'Network' by concluding contracts with private healthcare service providers in the country ("healthcare providers", "providers"). It is the responsibility of the insurance company to confirm that each healthcare provider/facility in their network is licensed and registered with the MOPH.

According to Article 30 of the Law, an insurance company that enters into a contract with an unregistered healthcare provider may be subject to a fine of up to QAR 200,000. The same penalty applies if the insurance company concludes a contract with an unlicensed claims management company or insurance broker.

Per Article 37 of the Implementing Regulations, the insurance company must settle the costs of the healthcare providers whose services were administered to beneficiaries of the company's policy/policies and verify the settlement of any copays or deductibles by the relevant beneficiary. Claims must be settled within 45 days of the filing thereof, whether the claim was submitted directly or through a claims management company. Beneficiaries must also be indemnified for reimbursable expenses within the same time limit. This obligation continues throughout the validity of the insurance policy and for three months following its expiry unless a claim is filed after this period with reasonable justification for the delay.

If a health insurance policy shall be rescinded due to policyholder default on premium payments, the insurance company must inform the employer/recruiter, the competent department, and the Network of the date of termination thereof (Article 41 of the Implementing Regulations).

Further, insurance companies must comply with the following obligations, or risk the penalty of a fine of up to QAR 300,000 (Article 30 of the Law):

- In cases where a beneficiary receives emergency treatment from a provider that is not included in the company's network, the insurance company shall pay the costs of said emergency treatment.
- The insurance company may not refuse new requests for insurance coverage from an employer or recruiter unless upon approval of the MOPH.
- The company shall not impose any restriction or limiting condition that will hinder the ability of the beneficiary to exercise his or her right to healthcare services.
- The company shall not require an eligibility period or link the beneficiary's medical history to his or her contribution to the health insurance policy in any way.
- Even in the event that the insurance company is deregistered, the health insurance policies will remain valid, and the insurance company must ensure that the rights of each policyholder are upheld throughout the period of validity of the policy (Article 18 of the Law).

Without prejudice to other potential penalties,

violation of the above obligations may result in a warning with a requirement to remove the causes of the violation within a given period. If the violation continues, the Minister, in coordination with the competent department, may decide to de-register the violating company (Article 37 of the Law).

g. Healthcare Provider Obligations

In order to be registered with the health insurance system, a private healthcare service provider must be duly licensed and registered with the MOPH. In the event a healthcare service provider administers any services while unregistered, except in cases of emergency, that provider may be subject to a penalty of up to QAR 500,000 (Article 28 of the Law).

In cases of emergency, the provider will treat any individual and will not require payments from the individual until his or her condition is no longer urgent, though the insurance company shall be notified of the case within 24 hours. In providing any emergency healthcare services, the provider retains its right to require the corresponding payment from the insurance company, employer, or recruiter, as applicable (Article 19 of the Law, Article 55 of the Implementing Regulations). Per Article 29 of the Law, a healthcare provider that does not provide services in cases of emergency or accidents may be subject to a fine of up to QAR 500,000.

A provider that otherwise refrains from providing services as contracted per the Health Insurance Law may incur a penalty fine of up to QAR 250,000 (Article 31 of the Law).

According to Article 53 of the Implementing Regulations, all provider claims must be filed within 45 days from the date of provision of the healthcare service, unless upon MOPH approval of an extension of the deadline.

If necessary, the provider may apply for a temporary suspension of the provision of healthcare services. This suspension must not exceed ninety days, otherwise the provider risks cancellation of its registration (Article 58 of the Implementing Regulations).

Without prejudice to other potential penalties

provided by law, and unless stated otherwise, a healthcare provider that violates any of its obligations under the Health Insurance Law, and that does not remedy such violation within the time period provided by the MOPH, risks being deregistered by via a decision of the Minister. Further, the Minister may decide, upon the recommendation of the competent department, to close the facility of the violating healthcare provider for a period of up to one month, and the violating provider will be required to pay the relevant closure expenses (Articles 37 & 38 of the Law).

h. Claims Management Companies & Health Insurance Brokers

Chapter 4 of the Law and Chapters 9 and 10 of its Implementing Regulations provide the responsibilities and roles of claims management companies and health insurance brokers. Like insurance companies and healthcare service providers, claims management companies and health insurance brokers must be licensed and registered with the MOPH.

Claims management companies handle and administer claims that relate to healthcare services, and duly file them with the insurance companies. They do not collect any amount of money from beneficiaries, nor do they sell or market health insurance policies themselves (Articles 59 & 60 of the Implementing Regulations).

In addition to adhering to Ministry and international standards for service quality and practice, the claims management companies must provide the competent department with regular reports on financial claims, or other reports as requested, as well as notifying the department within 15 days of any provider violations or misuse (Article 60 of the Implementing Regulations).

Moreover, health insurance brokers are those who advise and inform beneficiaries, employers and recruiters of the best prices and coverage of different available insurance plans. The health insurance broker must be independent from any other party to the insurance relationship, and it must conduct its business with absolute impartiality. The health insurance broker must not collect any money from the beneficiaries, employers, or recruiters, and must ensure all marketed and sold policies are issued by registered insurance companies (Article 22 of the Law).

Unless otherwise stated, and without prejudice to other possible penalties provided by law, the claims management company or health insurance broker that violates its obligations under the Health Insurance Law may be issued a warning by decision of the Minister, and upon failure to remedy such violation within the allotted time period, may be subject to de-registration based on the recommendation of the competent department (Article 37 of the Law).

IV. Penalties

With respect to the violations mentioned herein and any others prescribed by the Law, the Implementing Regulations, and any decisions or instructions to be released in the future, the following should be noted.

In the event that a violation is repeated within 5 years from the completion of the sentence, or from the lapse of the sentence by prescription (considered recidivism), the corresponding penalty shall be doubled (Article 33 of the Law).

Further, in cases where a private legal person (i.e., private companies) has violated the Health Insurance Law, the individual who is in charge of the management of that private legal person may incur the same penalties as the private legal person, if it is determined that the individual in question was aware of the violation or the fact that it occurred, or if the violation occurred due to a breach by the individual of his or her management obligations. Further, if the Health Insurance Law is violated by an

employee of a private legal person on behalf of or to the benefit of the private legal person, the private legal person shall be jointly responsible for the payment of any awarded compensation (Article 34 of the Law).

Conciliation may be implemented for violations of the Health Insurance Law, except for cases wherein a private healthcare facility has refrained from providing healthcare services in cases of emergency or accident. Conciliation shall be implemented in return for the payments provided by the Schedule of Conciliation in the Health Insurance Law, and otherwise in return for the payment of half of the maximum penalty fine for each violation, as well as the termination of the violating act(s). When conciliation is implemented, criminal proceedings shall no longer be admissible, and any ongoing criminal proceedings for the same violation shall be terminated (Article 35 of the Law).

V. Grievances

The MOPH is responsible for receiving complaints related to the Health Insurance Law (Article 2 of the Law).

Chapter 5 of the Law establishes a "Grievance Committee" within the MOPH, the details of which will be clarified by a decision of the Minister. Parties who wish to file grievances against a decision of the

Committee may do so to the Minister within 7 days of notification of the decision. The Minister will then issue a final decision within 10 days.

For grievances pertaining to the deregistration or closure of the company (as described in sections III e), f), and g)), a final decision shall be made on the grievance within 30 days.

In any case, the lapse of the prescribed time period without the issuance of a decision by the Minister will be considered a rejection of the grievance (Article 39 of the Law).

CHAPTER 3

WHAT'S TO COME ?

The Health Insurance Law reserves certain details to be determined by decisions of the Minister or the Cabinet of Ministers. In addition to those mentioned throughout this article, decisions are still pending regarding the provision of government subsidies as payment of a percentage of the health insurance premium for certain categories, as well as the allocation of an amount equivalent to a percentage of the total of all premiums paid annually to an insurance company to ensure that beneficiaries who exceed the limits of coverage for Basic Healthcare Services may receive additional services if needed (Articles 41 & 42 of the Law).

Further, decisions such as the fees for issuing, renewing and replacing Health Cards, as well as fees for registration of insurance companies, healthcare service providers, claims management companies and health insurance brokers are yet to be announced (Articles 7 & 12 of the Law). Also, yet to come is the regulation determining the cost of health insurance premiums, which shall be reviewed annually by the competent department and any recommendations shall be submitted to the Minister (Article 2 of the Law, Article 64 of the Implementing Regulations).

The Cabinet of Ministers may also issue a decision exempting certain categories from the mandatory health insurance requirement all together. In this case, the Minister will decide on the conditions for those categories to obtain healthcare services (Article 9 of the Law).

At this point, the enforcement of the Law and the Implementing Regulations appears to be rolling out in phases. The obligation for visitors to be covered by health insurance in accordance with the Law was the first to be imposed, beginning shortly before the beginning of the FIFA World Cup Qatar 2022 for which hundreds of thousands of visitors entered the country. While it is not possible to predict which obligations will be the next to be enforced, it is likely that the next phase will be implemented in the coming weeks or months.

In any case, it is advisable to implement the relevant procedures as soon as practicable to avoid any inconvenience or risk of penalties. It should be noted that, once the relevant terms are fully enforced, those who wish to issue, receive, or renew Residence Visas and employment contracts must verify their compliance with the terms of this law in order to obtain approval (Article 10 of the Law).

CHAPTER 3
CONCLUSION

As is often the case with new laws, some of the intricacies of the Health Insurance Law and its application remain unclear at the time of writing this article. These details are expected to be clarified as the implementation of the Law progresses and the parties to the insurance relationship are held to the terms and conditions therein.

Overall, with the implementation of this new law, Qatari citizens, residents, and visitors alike can look forward to increased healthcare security, given the newfound guarantee that they will receive health insurance that covers at least the basic scope of services provided by the Law. This security will add to the quality of expatriate life in Qatar and will serve to further establish the country as an attractive living environment in support of Qatar's growth and development objectives going forward.

We may also see an improved distribution of responsibility and patient load across the public and private healthcare sectors in Qatar, which could result in shorter wait times, higher quality medical service, and more specialized treatment.

Maintaining awareness of the Health Insurance Law and the evolution of its application is necessary to ensure all parties are fully aware of their respective rights and obligations when it comes to health insurance and healthcare services. This space can be watched for updates, advice, and guidance to come.

PREPARED BY

MS. AMY SARETSKY
JUNIOR ASSOCIATE

CONNECT WITH US

عيسى السليطي للمحاماة
ESSA AL SULAITI LAW FIRM

TEL : +974 4447 1555
+974 4466 4606
EMAIL : INFO@ESLAA.COM

BLDG 8, AL MANSOUR ST NO. 980, ZONE 45
P.O BOX : 4912. DOHA, QATAR

/eslawfirm