

## CHAPTER 1

# MODERN TRENDS IN PUBLIC ADMINISTRATION

### LABOUR PROTECTION OF MEDICAL WORKERS IN CONDITIONS OF THE COVID-19 PANDEMIC IN THE CONTEXT OF PUBLIC POLICY OF UKRAINE REGARDING THE LABOUR SAFETY

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**Abstract.** Since acute respiratory viral disease COVID-19 is recognized as a particularly dangerous disease, and the working conditions of medical and other workers involved in the extirpation of the pandemic are characterized as those with high levels of harmful factors in providing medical care to patients, and also when working with live pathogens and in COVID-19 environments, the impact of which when performing professional duties poses a threat to life, a high risk of acute occupational injuries, including severe forms - of particular importance is the issue of protection of labour of health workers, the health of medical personnel and their safety at the workplace, as their working conditions are dangerous (belong to the highest risk group) and pose a threat to their health and even life. The article considers the main provisions of current legislation regarding the protection of labour of medical workers, who are directly involved in the elimination of the epidemic and treatment of patients with COVID-19 in the context of public policy on occupational safety, analyzes the current state of public regulation in this area and organizational and legal mechanisms are researched. There are proposed priority areas for improving the regulatory framework of compulsory state insurance of medical and other employees while performing their professional duties in conditions of increased risk of infection with infectious diseases.

**Keywords:** public policy, labour protection, medical workers, acute occupational disease COVID-19, insurance payments.

**JEL Classification:** K31, K32, J28, I18

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**Introduction.** Given the recognition of human health as the highest social value in the state, and as is guaranteed by the Constitution of Ukraine [1] the rights of everyone to health care, medical care, proper, safe and healthy working conditions, the state has to develop and implement an appropriate public policy aimed at ensuring proper medical care for citizens and their labour safety. The priority of life and health of workers and ensuring proper, safe and healthy working conditions are the principles on which the public policy of Ukraine in the sphere of labour protection is based.

At the same time, in the context of the pandemic caused by the sharp spread of acute respiratory viral infection caused by the coronavirus SARS-CoV-2, the issues of labour protection of medical workers become of particular importance. It is vital to

care about the health of medical staff and their safety in the performance of professional duties as far as they ensure providing assistance in combating the spread and manifestations of the coronavirus pandemic and belong to the highest risk group for COVID-19 disease.

According to the Center for Public Health of the Ministry of Health of Ukraine, for the period from the beginning of the pandemic to April 1, 2021, 1711,630 laboratory-confirmed cases of COVID-19 were recorded in Ukraine, of which 74,785 cases of medical workers. At the same time, the day recorded 19893 new cases, of which 484 cases of medical workers [2].

**Literature review.** The research of, in particular, O. Nipialidi, O. Vasylchyshyn [3] and others are devoted to the modern state of labour protection in Ukraine. Such domestic researchers as O. Yavorovskyi, Yu. Skaletskyi, R. Brukhno and others [4] have considered some aspects of safety, occupational health and infection control in the fight against occupational diseases of medical workers at COVID-19 in health care facilities of Ukraine. Kindgen-Milles D., Brandenburger T., Braun JFW, Cleff C., Moussazadeh K., Mrosewski I. were among the first in the EU to publish a study on the incidence of COVID-19 among German intensive care and emergency physicians (2021) [5].

However, without underappreciating the work of the above-mentioned authors, it should be noted that the current state of scientific research regarding the labour protection of medical workers in the context of the COVID-19 pandemic is insufficient due to its novelty.

**Aims.** The paper aims at studying the current state and analysing the legal nature and legal regulation of insurance payments to medical workers in case of the occupational disease on COVID-19 in Ukraine.

**Methods.** The information basis of the article consists of the legal acts of the Verkhovna Rada of Ukraine (VRU) and the Cabinet of Ministers of Ukraine (CMU), posted on the website "Legislation of Ukraine" (Verkhovna Rada of Ukraine 2021); materials for monitoring the incidence of COVID-19 (Center for Public Health 2021). The theoretical and methodological basis of the article is the biblio-semantic method and the method of comparative and systemic analysis, as well as the method of scientific generalization, which allowed to formulate the conclusions.

**Results.** First of all, it should be noted that the professional activity of health workers directly involved in the elimination of the epidemic and treatment of patients with COVID-19 belong to the high-risk group (risks of disease, injury and death), as COVID-19 is recognized as a particularly dangerous disease [6], and working conditions characterized by levels of harmful factors of the production environment and labour process, the impact of which during the work shift (or part of it) poses a threat to life. And the high risk of acute occupational diseases, including severe forms, are dangerous labour conditions (referred to as the 4th class of danger) [7].

At the same time, since labour protection is a system of legal, socio-economic, organizational and technical, sanitary and hygienic and treatment-and-prophylactic measures and means aimed at preserving human life, health and ability to work [8], - the public labour protection policy, first of all, should be aimed at minimizing

occupational risks that cause a person's occupational disability, are an objective consequence of his/her work, and, above all, can not be eliminated by improving working conditions; as well as the formation of priority areas for creating conditions that provide a decent standard of living and opportunities for free human development.

An objective prerequisite for minimizing the negative impact of occupational risks on the employee is the presence of:

- state social guarantees [9] - established by laws and other regulations, in particular - the minimum amount of social assistance and other types of social benefits that provide a standard of living not lower than the subsistence level;

- compulsory social insurance [10] - a system of rights, responsibilities and guarantees, which provides social protection, including material security of citizens, in particular, in case of illness, complete, partial or temporary disability, loss of a breadwinner, unemployment circumstances independent of them, at the expense of monetary funds formed by the payment of insurance by the employer, citizens, as well as budget and other sources provided by law;

- insurance [11] - a type of civil law relations to protect the property interests of individuals and legal entities in the event of certain events specified in the insurance contract or applicable law, at the expense of funds formed by paying individuals and legal entities insurance payments (insurance contributions, insurance premiums) and income from the placement of these funds.

According to Article 253 of the Labour Code of Ukraine [12], all employees who work under an employment contract (contract) at enterprises, institutions, organizations, regardless of ownership, type of activity and management or an individual, are subject to mandatory state social insurance.

Types of compulsory state social insurance [13]: due to temporary disability; from an accident at work and an occupational disease that caused disability; medical; - constitute a system of rights, obligations and guarantees, which provides material support, insurance payments and provision of social services to insured persons at the expense of the Social Insurance Fund of Ukraine.

The list and mechanism of payments under the compulsory state social insurance to medical workers involved in the elimination of the pandemic of acute respiratory viral disease COVID-19 caused by coronavirus SARS-CoV-2 when diagnosing acute occupational COVID-19 disease in Table 1 are given.

In the context of the above-written, it should be noted that the basis for obtaining the relevant insurance benefits is an act of investigation of acute occupational disease (in the prescribed form), which is conducted following the Procedure for investigation and accounting of accidents, occupational diseases and accidents Resolution of the Cabinet of Ministers of Ukraine of April 17, 2019, № 337 [14], as laboratory-confirmed cases of COVID-19 infection of medical and other workers associated with the performance of professional duties in conditions of increased risk of infection with COVID-19 (medical care for patients with infectious diseases, work with live pathogens and in the environment of infectious diseases,

disinfection measures, etc.), are investigated as cases of acute occupational disease following the requirements of the same Procedure [15].

**Table 1. The list and mechanism of payments to medical workers under the Law of Ukraine "On Compulsory State Social Insurance"**

Type of payment	Under what circumstances it is carried out	To whom it is paid	The amount of payment
temporary disability benefits	occurrence of temporary incapacity for work (from the first day until the end of temporary incapacity for work)	sufferer	100 percent from average earnings regardless of insurance experience
one-time benefit	persistent loss of professional ability to work	sufferer	according to the degree of disability, based on 17-times of subsistence levels for able-bodied persons
	death of the sufferer	the sufferer's family and to each person who was dependent on the sufferer	100 subsistence minimum for able-bodied persons; 20 subsistence levels for able-bodied people
monthly insurance payment	partial or complete disability	sufferer	compensates the relevant part of the lost earnings of the sufferer (the maximum amount of payment does not exceed 10 times the subsistence level for able-bodied persons)
insurance payment	temporary transfer of the sufferer to a lighter, lower-paid job	sufferer	the average monthly earnings of the sufferer
costs of medical and social assistance	determination by conclusions of the medical and social expert commission and the individual program of rehabilitation of the person with a disability (in case of its drawing up)	sufferer	According to the need identified in the conclusions and rehabilitation program
monthly insurance payment to persons, who lost a breadwinner	death of the sufferer	incapable persons who were dependent or had the right to receive maintenance from him on the day of his death; a child born no more than ten months after the death of the sufferer; the wife (husband) or one of the parents or another family member, if he/she is not working and caring for the sufferer's children, brothers, sisters or grandchildren who have not reached the age of eight	not more than 10 subsistence minimums established for able-bodied persons
insurance indemnity	death of the sufferer	family members or dependents of the sufferer	the cost of burying the sufferer and related ritual services

Besides, it should be noted that the strengthening of insurance protection of property interests of individuals and legal entities is included in the scope of regulation of the Law of Ukraine "On Insurance" [16], and its effect does not extend to state social insurance.

In particular, the above Law provides for two forms:

- voluntary insurance (carried out based on a voluntary insurance contract, all essential terms of which are determined solely by agreement of the parties based on the Insurance Rules defining the mechanism of its conduct) and

- compulsory insurance (the procedure and rules of which, the form of a standard contract, special licensing conditions for compulsory insurance, the amount of insurance payments and maximum insurance rates or method of calculation set by the Cabinet of Ministers of Ukraine, unless otherwise provided by law). An exhaustive list of types of compulsory insurance is given in Article 7 of the same Law, including, in particular, insurance of medical and other employees of public and municipal health care institutions and public research institutions (except for those working in funded institutions and organizations from the State Budget of Ukraine) in case of infectious diseases associated with the performance of their professional duties in conditions of increased risk of infection with infectious diseases.

According to Article 39 of the Law of Ukraine "On Protection of the Population from Infectious Diseases" [17], the illness for infectious diseases of medical and other workers associated with the performance of professional duties in an increased risk of infection with infectious diseases (medical care for patients with infectious diseases, work with live pathogens and the environment of infectious diseases, disinfection measures, etc.), belong to occupational diseases. These employees of public and municipal health care institutions and public research institutions are subject to compulsory state insurance in case of infectious disease in the manner and under the conditions established by the Cabinet of Ministers of Ukraine.

However, as of today, there is no legal act in Ukraine that defines the procedure and conditions of compulsory state insurance of medical workers in case of an infectious disease. Instead, the state budget funds under the program "Financial assistance of the Social Insurance Fund of Ukraine for insurance payments" are used to make insurance payments in case of illness or death of medical workers because of the infection with acute respiratory COVID-19 disease caused by coronavirus SARS-CoV-2 to health workers of public and municipal health care institutions and their families due to the coronavirus COVID-19 disease caused by coronavirus SARS-CoV-2 and its consequences", allocated to the Ministry of Social Policy on a non-refundable basis (consumption expenditures) from the fund for combating acute respiratory COVID-19 illness caused by coronavirus SARS-CoV-2, and its consequences for the provision of financial assistance to the Social Insurance Fund of Ukraine [18].

Types of payments to medical workers involved in the elimination of the pandemic of acute respiratory viral COVID-19 disease caused by coronavirus SARS-CoV-2 when identifying the case of being infected while performing professional duties provided by the Law of Ukraine "On Protection of the Population from the

Infectious Diseases" and Cabinet of Ministers Resolution of Ukraine on " Some issues of insurance benefits in case of illness or death of health workers when being infected with acute respiratory COVID-19 disease caused by coronavirus SARS-CoV-2" are listed in Table 2.

**Table 2. Types of payments to medical workers according to the Law of Ukraine on «On Protection of the Population from the Infectious Diseases» and Cabinet of Ministers Resolution of Ukraine on «Some issues of insurance benefits in case of illness or death of health workers when being infected with acute respiratory COVID-19 disease caused by coronavirus SARS-CoV-2»**

Type of payment	Under what circumstances it is carried out	To whom it is paid	The amount of payment
one-time payment in case of establishing a disability group and the degree of loss of professional capacity for work within one calendar year	as a result of coronavirus disease (COVID-19), in the case when the disease is associated with the performance of professional duties in conditions of increased risk of infection	ta medical worker; a senior medical student (5th and 6th year of studies) involved in the fight against coronavirus disease (COVID-19) by a public and municipal health care institution; an intern, who is admitted to work following the requirements of the Labour Code of Ukraine	persons with disabilities of the I group - 400 subsistence minimum for able-bodied persons, established on January 1 of the calendar year;  persons with disabilities of the II group - 350 subsistence minimum for able-bodied persons, established on January 1 of the calendar year;  persons with disabilities of the III group - 300 subsistence minimum for able-bodied persons, established on January 1 of the calendar year.
one-time payment in case of death of a medical worker, resulting from his/her infection with acute respiratory COVID-19 disease	death of a medical worker as a result of his/her infection with acute respiratory COVID-19 disease	family members, parents, dependents - in equal parts	750 amounts of the subsistence minimum for able-bodied persons, established on January 1 of the calendar year.

If a medical worker is assigned a disability group and the degree of disability - insurance payments are made within one month from the date of entitlement to such benefits, and in case of death of a medical worker caused by an acute occupational disease - one-time benefits are paid in equal parts to family members, parents and dependents of the sufferer - within one month from the date of the right to one-time assistance.

A health worker who has died as a result of a COVID-19 infection with coronavirus disease is equated in status with a serviceman who has died as a result of injury, contusion, mutilation, or illness related to military service. The family members of such an employee, his parents and dependents enjoy all the rights and guarantees provided by the legislation of Ukraine for family members, parents and dependents of servicemen who served in the military and whose death occurred as a result of injury, contusion, mutilation, disease, illness related to the performance of military service duties, taking into account the provisions of the Law of Ukraine "On Protection of the Population from Infectious Diseases".

In the context of the above-written, it should be noted that according to the Social Insurance Fund of Ukraine [19], during 2020, it received 35,660 reports of acute occupational disease on COVID-19, of which 401 were fatal. At the same time, 3054 cases of such diseases were recognized as work-related, of which 66 were fatal [20]. Also, insurance payments to the families of medical and other workers who died of acute occupational disease on COVID-19 were assigned in 35 cases [21].

**Discussion.** The results obtained during the analysis of legal and regulatory provisions for ensuring insurance benefits to medical workers in case of the occupational disease on COVID-19 in Ukraine, in contrast to the previously mentioned works of other researchers, relate to reflecting the mechanism of receiving such benefits by medical and other workers involved in eliminating the pandemic COVID-19 and also identify gaps in it.

**Conclusions.** In case of connection of illness of medical workers on COVID-19 with a performance by them of professional duties, such medical workers, (or members of their families in case of death of medical workers), have the right to the insurance payments provided by the Law of Ukraine on "A Compulsory State Social Insurance" and on the Law of Ukraine "On Protection of the Population from Infectious Diseases".

At the same time, the lack of regulation of the mechanism of legal relations on compulsory insurance of employees of public and municipal health care institutions and public research institutions (except those working in institutions and organizations funded by the State Budget of Ukraine) in case of infectious diseases, associated with the performance of their professional duties in conditions of increased risk of infection with infectious diseases, in particular, including acute respiratory COVID-19 disease caused by coronavirus SARS-CoV-2 - creates significant obstacles to its implementation within the scope of the legal field, as well as stipulates the necessity of the promptest legal regulating of the procedure and conditions of compulsory state insurance of medical workers in case of infectious disease is associated with the performance of their professional duties in conditions of increased risk of infection with infectious diseases, by developing and adopting an appropriate subordinate act (by-law) that will determine the appropriate procedure and conditions for this type of compulsory state insurance.

The presence of gaps in the legislation on health and safety of medical and other workers involved in the elimination of the epidemic and the treatment of patients with COVID-19 necessitates further scientific research.

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