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Commission

Your social security rights

in Spain

The information provided in this guide has been drafted and updated in close collaboration with the national correspondents of the Mutual Information System on Social Protection (MISSOC). More information on the MISSOC network is available at: <http://ec.europa.eu/social/main.jsp?langId=en&catId=815>

This guide provides a general description of the social security arrangements in the respective countries. Further information can be obtained through other MISSOC publications, all available at the abovementioned link. You may also contact the competent authorities and institutions listed in annex to this guide.

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Chapter I: Introduction, organisation and financing

Introduction

The social security system in Spain has two levels or types of protection: the contributory system and the non-contributory system.

Contributory system

There are two types of contributory schemes in the Spanish social security system:

- a general scheme applicable to all employed persons who are not covered by special schemes, plus certain categories of civil servants; and
- three special schemes, for: the self-employed, coal miners and sea workers (sailors and fishermen).

Students are covered by a special protection plan (school insurance). There is also a special contributory scheme for civil servants.

Non-contributory system

Persons who face a specific situation of need, and whose income is below a certain legally prescribed level, are eligible for non-contributory benefits. They may be entitled to this even if they have never paid social security contributions, or have done so but are not entitled to the resulting benefits under the contributory system.

Non-contributory benefits include:

- medical assistance;
- retirement and disability allowances;
- special assistance for the unemployed (*subsídio por desempleo*);
- family allowances;
- non-contributory maternity allowance (*subsídio por maternidad de naturaleza no contributiva*) (not means-tested).

In addition, certain limited categories of persons may claim supplementary benefits from the central or local government. This social assistance is provided primarily to elderly and disabled persons.

Voluntary insurance

The Spanish system provides for the possibility of concluding special voluntary agreements with the social security services for the purpose of maintaining, or in certain specific cases extending, an entitlement to social security benefits.

In certain situations this may mean subscribing to the corresponding social protection scheme, depending on the person's occupation. In such cases the insurance contribution is paid entirely by the subscriber.

Registration

In Spain, a person entering the labour market for the first time has to register with the social security service and join the insurance scheme for his or her type of occupation. This must be done within certain time limits. Self-employed persons must do this themselves; otherwise, it is the employer's responsibility.

Registration with the social security service is compulsory. It is done once only, when the person begins to work for the first time, and is valid for his or her entire working life.

Once a person has registered s/he is given a registration card with his or her personal details and a personal social security identification number. This card is valid for his or her whole lifetime and is used for all dealings with the social security system, and so must be kept very carefully.

No-one may be insured simultaneously under two social security schemes for the same occupation. Once a person has registered with the appropriate social security scheme and started to work, s/he begins to pay social security contributions and is automatically insured. Changes in a person's employment situation – for instance, change of jobs, or a period of unemployment – affect the insurance status. Periods when a person is working and paying contributions are called "*altas*", and those when a person is not working are called "*bajas*".

As a general rule a person must be employed and paying contributions in order to be entitled to benefits. There are, however, several situations that are treated as insurance contribution periods ("*alta asimilada*"), even if the person is not actively employed.

Similarly, provided certain conditions have been met, a person who is not paying contributions may still be entitled to an old-age pension, a permanent incapacity (absolute permanent incapacity or severe incapacity) pension, and death and survivor's benefits (except the funeral expenses grant).

Special regime for civil servants

Civil service personnel, military personnel and other public employees are insured under a special social security regime, although certain categories of civil servants belong to the general social security regime.

This special regime covers:

- career civil service personnel;
- career military personnel;
- officials of the courts, the legislature and other State or constitutional bodies, if the applicable legislation so provides.

Organisation of social protection

The Spanish social security system is administered by the following organisations.

The General Social Security Revenue Office (*Tesorería General de la Seguridad Social - TGSS*) keeps the registration records of companies, employees and self-employed persons, monitors their employment status and social security contributions, collects social security contributions and pays out all benefits. It also manages the Social Security Reserve Fund.

The National Social Security Institute (*Instituto Nacional de la Seguridad Social - INSS*) is responsible for granting and calculating all the cash benefits provided for by all the schemes (except for the special scheme for sea workers, non-contributory old-age and disability allowances and unemployment benefits) and all family benefits (in all schemes, including the special scheme for sea workers).

The Social Institute for Sea workers (*Instituto Social de la Marina - ISM*) has a double function. It is responsible both for the social problems of the maritime and fishing sector and for administering the special social security scheme for sea workers.

Healthcare is administered by the health services of the Autonomous Communities and, in Ceuta and Melilla, by the National Institute for Health Management (*Instituto Nacional de Gestión Sanitaria - INGESA*).

The Institute for Elderly and Social Services (*Instituto de Mayores y Servicios Sociales - IMSERSO*) administers, with the Autonomous Communities, pensions paid under the non-contributory system, benefits for the elderly and the disabled and related social services. It also administers long-term care schemes.

The State Public Employment Service (*Servicio Público de Empleo Estatal - SPEE*) administers and checks unemployment benefits. It is also responsible for developing employment policies, in co-operation with the Autonomous Communities, through the employment offices (*Oficinas de Empleo*).

The specific schemes for civil servants are administered by special public organisations.

Appeals

Anyone who disagrees with the decision of a social security organisation can submit a complaint to that organisation, within thirty days from the time of notification of the decision. If the organisation rejects the complaint, an appeal to the local social security tribunal (*Juzgado de lo social*) is available. As a further step, a claim can be lodged at the Higher Court of Justice of the Autonomous Community to which the social security tribunal belongs.

Financing

As soon as a person begins to work he or she begins to pay social security contributions. They are calculated as a percentage (contribution rate) of the contribution base. These contribution bases and rates are determined by the government each year.

In the general insurance scheme, the contribution base corresponds roughly to the employee's real salary. There is, however, a floor rate, which is equivalent to the guaranteed minimum wage (*SMI*) increased by one sixth for full-time employment,

and a ceiling, which is equivalent to a little more than five times the guaranteed minimum wage.

For the self-employed, there are fixed floor and ceiling contribution bases, and they have to pay contributions calculated on at least the minimum level. They can, however, choose a higher level, up to the prescribed maximum, and can later change it within the set limits. Under certain conditions, they can also voluntarily upgrade their protection in order to include insurance against accidents at work and occupational diseases.

Self-employed persons are responsible for paying their own social security contributions. For employed persons, their contributions are withheld from their pay, and transferred to the General Social Security Revenue Office by their employer together with his own contributions. Contributions for accidents at work and occupational diseases are paid solely by the employer.

Long-term care benefits are financed by the State, the Autonomous Communities (*Comunidades Autónomas*), with the collaboration of Local Institutions and the participation of beneficiaries where appropriate. Family benefits are also financed out of taxes.

Civil servants have to pay contributions to the corresponding insurance programme and pension fund.

Chapter II: Healthcare

When are you entitled to healthcare?

Who is insured?

- Registered workers who are affiliated to a social protection scheme or who are in an equivalent position. For the purposes of these benefits, workers are held to be fully covered even if their employer has not fulfilled his insurance obligations;
- Pensioners and those receiving periodical social security benefits;
- Unemployed persons who have exhausted the unemployment benefit or allowance and who are not able to certify insured status by any other means.

Access to health insurance is also provided to family members of insured persons as long as they reside in Spain, including, under certain conditions:

- the spouse of the person insured or the person co-habiting with the insured;
- those who are separated or divorced if they have the right to alimony;
- lineal descendants of the insured or his/her spouse, whatever their legal filiation, brothers and sisters of the insured person, and fostered children, younger than 26 or with a degree of disability of at least 65%.

Some categories of Spanish emigrants and some of their family members, while temporarily resident in Spain or upon their return, may join the healthcare scheme, as long as they possess no other entitlement to healthcare.

Healthcare is also provided to legal residents whose income does not exceed the legally established limit. Detailed conditions are prescribed which relate mainly to residence and lack of social insurance coverage. If these conditions are not met, one may be entitled only to emergency care in the event of serious illness or accident.

Insurance is not possible on the grounds of salaried work which is considered marginal and does not present basic income for living.

What is covered?

Healthcare

The national health insurance system covers medical treatment at home (*ayuda domiciliaria*, for instance for retired and disabled persons), in a health centre and in (a public or private) hospital, contracted by *Comunidades Autónomas* or INGESA.

The national health insurance system also covers hospitalisation and emergency care (with or without hospitalisation) in an emergency medical centre. If an ambulance is needed, the cost will be covered by the national health insurance system.

The national health insurance system provides medicines, surgical prostheses, orthopaedic equipment and ordinary wheelchairs. It does not cover dental prostheses or eyeglasses.

Rehabilitation is provided free of charge, if the treating physician believes it is medically necessary. Under certain conditions treatment with thermal cures is also possible.

Ships at sea can get medical advice by radio from the Social Institute for Sea workers (*ISM*) twenty-four hours a day.

Special schemes – Specific rules

The Special Social Security Scheme for Sea workers makes specific provisions for accident or illness on board a ship or in foreign ports.

Special programmes for the disabled

The national health insurance system provides healthcare and pharmaceuticals for disabled persons, including special functional and psychotherapeutic rehabilitation programmes, psychological treatment and counselling, general and special education programmes, occupational rehabilitation, vocational integration programmes, etc.

Disabled persons over the age of three years with a degree of invalidity of at least 33% who cannot use public transport are eligible for a mobility allowance or compensation for transport costs.

How is healthcare accessed?

To obtain healthcare, you have to present your “national health system user’s card” (*tarjeta de usuario del Sistema Nacional de Salud*).

Medical care is generally free of charge, although dental care is not fully covered. For outpatient treatment, medicines are free for certain beneficiaries, particularly beneficiaries of non-contributory pensions, unemployed persons who have exhausted the unemployment allowance and those receiving benefits for accidents at work or occupational diseases. Others must pay part of the cost (between 10% and 60% of the price, depending on the income of the beneficiary). No charge is made for medicines administered as part of hospital treatment.

If you are entitled to health insurance as the beneficiary of the insured person (normally as a spouse) and you are no longer living together, you can apply to your provincial National Social Security Institute (*INSS*) directorate for a health insurance card for yourself and your cohabiting children.

Healthcare is provided exclusively through the network of Health Centres in the Autonomous Communities (except for Ceuta and Melilla, where it is provided through the National Institute for Health Management - *INGESA*) or approved medical centres (*Centros médicos concertados*). As a rule, medical care obtained from another medical centre is not covered by the national healthcare system.

If you need to see a general practitioner (GP), a paediatrician or a dentist, you can do so directly. To consult another specialist, you have to be referred by your GP. Within your own health-care district you can select a GP and a paediatrician, as long as their patient lists do not exceed the quota set for the district. Except in emergencies, in order to be admitted to hospital you need to be referred by a specialist.

Generally, there is no possibility to choose a hospital. Patients have a hospital assigned to them according to their address (with the exception of emergencies, when access to any hospital is provided).

Chapter III: Sickness cash benefits

When are you entitled to sickness cash benefits?

Sickness cash benefit for temporary incapacity (*incapacidad temporal*) is paid to persons registered with a social security scheme who had to stop working due to illness or accident.

Specific conditions are stipulated for self-employed farm workers. They have the possibility of voluntarily taking out insurance coverage for sickness cash benefit. They can take out insurance covering sickness cash benefit when they first take up this occupation or before 1 October of every year.

You may be entitled to sickness cash benefit if contributions for a total of 180 days within the five preceding years have been paid.

What is covered?

Sickness cash benefit

As a general rule, temporary incapacity benefits are paid after a waiting period of 3 days. The employer pays sick pay from the fourth up to the fifteenth day of sick leave, after which sickness cash benefit is provided from the social security system.

The benefit is paid for a maximum of 365 days, which may be extended for a further 180 days if the physician certifies that recovery is likely within the additional period.

The sickness cash benefit amounts to 60% of the calculation basis (generally the contribution base of the preceding month) and is paid from the fourth day after the person stops work as certified by the physician up to and including the twentieth day (paid until the fifteenth day by the employer). After that the benefit is 75% of the calculation basis.

There is a benefit for caring of children affected by cancer or another serious illness (*Cuidado de menores afectados por cáncer u otra enfermedad grave*), aimed at parents (including adoptive parents and pre-adoptive or permanent foster parents) who are both working and who reduce their working hours by at least 50% in order to take care of a child affected by those illnesses, which require long-term hospitalisation. The right to receive the benefit will only be granted to one of the parents.

Special schemes – Specific rules

For the self-employed, temporary incapacity benefit will be paid from the fourth day of incapacity. The amount of the benefit is 60% of the monthly contribution base from the fourth up to and including the twentieth day, and 75% of this calculation basis from the twenty-first day onwards.

Temporary incapacity benefits are paid directly to self-employed workers (by the INSS or the private insurance fund, depending on the case).

How are sickness cash benefits accessed?

Incapacity for work must be certified by a physician of the Public Health Services (*Servicios Públicos de Salud*). The certificate has to be issued following medical examination, and received by the employer within three days following its dispatch.

Chapter IV: Maternity and paternity benefits

When are you entitled to maternity or paternity benefits?

Benefits in kind

Healthcare (*asistencia sanitaria*) is guaranteed to female employees, pensioners, assimilated groups and their family members (as described in the part on [healthcare](#)).

Unauthorised foreigners will receive health care during pregnancy, birth and postpartum.

Maternity leave/benefits

The benefit for risk during pregnancy (*riesgo durante el embarazo*) is intended to protect the health of the working mother or the foetus while her employment contract is suspended, because she has to change her job for one compatible with her condition (or, for the self-employed, stop work) and this is not possible in her present employment circumstances.

The benefit for risk while breastfeeding (*riesgo durante la lactancia*) is paid to working mothers, who are breastfeeding and unable to continue with their normal occupation.

Maternity benefits are paid to all registered workers who are entitled to the maternity leave prescribed by labour legislation for the birth, adoption or fostering of a child.

To be eligible for contributory Maternity Allowance (*subsidio por maternidad de naturaleza contributiva*) or Paternity Allowance (*subsidio por paternidad*), an insured person has to have collected at least

- 180 contribution days in the seven years immediately preceding the birth of the child (or, in case of adoption or foster care placement, immediately preceding the date of the administrative/judicial decision); or
- 360 contribution days during the entire working life.

Special provisions govern the situation of workers under 26 years of age, only in case of maternity.

What is covered?

Benefits in kind

Pregnant women are entitled to prenatal care, to medical attention during childbirth and postnatal care. Hospitalisation is possible in hospitals of the National Health System (*Sistema Nacional de Salud*) or hospitals operating under agreement with this system.

Maternity/paternity leave and benefit

Contributory maternity allowance is provided for 16 weeks. This period may be extended for two further weeks in cases of multiple births, adoption or foster care placement or a disabled child. If both parents work, up to 10 weeks may be granted to the father. The period is extended in case of premature birth or the child being hospitalised.

It is also possible to combine maternity leave with part-time work. The period of maternity leave may be arranged to suit the mother, but in the case of a biological child, leave for the first six weeks following the birth of the child is compulsory.

Contributory paternity allowance is provided for 13 days (20 days in certain cases). It may be prolonged for two extra days per child in the event of multiple births, adoption or foster care placement. From the 1st of January 2014 the duration of the paternity leave will be extended to four weeks.

Maternity and paternity daily allowances are paid throughout the period of entitlement and amount to 100% of the calculation basis. The latter is determined as a result of dividing the contribution base of the month prior to the date of the leave by the number of days corresponding to this contribution.

Non-contributory maternity allowance (*subsídio por maternidad de naturaleza no contributiva*) is provided for 42 days (or 56 days in certain cases). It corresponds to 100% of the IPREM (Public Income Rate of Multiple Effects, *Indicador Público de Renta de Efectos Múltiples*).

The benefit for risk during pregnancy (*riesgo durante el embarazo*) is calculated daily and paid from the day the beneficiary's contract is suspended for that reason and continues for as long as it remains suspended. The amount is 100% of the calculation basis, which is the same as for sickness in case of accident at work and occupational disease.

The amount of the benefit for risk while breastfeeding (*riesgo durante la lactancia*) is 100% of the already mentioned calculation basis.

How are maternity and paternity benefits accessed?

To obtain healthcare, you have to present your "national health system user's card" (*tarjeta de usuario del Sistema Nacional de Salud*). If you are entitled to health insurance as the beneficiary of the insured person (normally as a spouse) and you are no longer living together, you can apply to your provincial National Social Security Institute (*INSS*) directorate for a health insurance card for yourself and your cohabiting children (see also part on [health care](#)).

Maternity and paternity benefits; and benefits for risk during pregnancy and risk while breastfeeding are paid directly by the [INSS](#) or the [Social Institute for Sea workers \(ISM\)](#), upon application.

Chapter V: Invalidity benefits

When are you entitled to invalidity benefits?

Permanent incapacity

A worker is considered to have a permanent incapacity (*incapacidad permanente*) when, after completing the prescribed treatment and having received a medical discharge, he or she is still physically or functionally incapacitated to the point that he or she will probably not be able to perform normal work for the rest of his or her life.

A person over the legal age of retirement who is entitled to an old-age pension cannot claim permanent incapacity benefits for non-work-related injury or illness. At the legal age of retirement, a permanent incapacity allowance is automatically transformed into a retirement pension. This does not change the way in which the benefits are paid.

Permanent incapacity is also the incapacity that remains at the end of the maximum temporary incapacity period. In general, permanent incapacity follows a temporary incapacity.

A special scheme exists for self-employed persons.

Qualifying conditions

To receive permanent incapacity benefits, the person must be registered with a social security scheme or must be in an equivalent situation at the time when the incapacity occurs. This does not apply: 1) when the invalidity is caused by an accident at work or an occupational disease, and 2) when absolute permanent incapacity or severe incapacity results from a non-occupational injury or illness and the worker has paid contributions for at least fifteen years, three of them within the ten years prior to the incapacity.

There is no minimum contribution period when the incapacity results from a non-occupational accident, an accident at work, or an occupational disease. When the incapacity is due to a non-occupational disease, the worker must have paid social security contributions for a set number of years, depending on his or her age. A regularly insured person under 31 years of age must have been insured for at least one third of the period between the age of 16 and the date of occurrence of invalidity.

Persons above this age have to have been insured for at least a quarter of the time between the age of 20 and the event giving rise to incapacity, subject to a minimum of five years. In addition, one fifth of the contribution period must fall within the 10 years prior to the invalidity.

A disabled person without adequate means who has never paid social security contributions or has not been insured for long enough to be entitled to a contributory pension may be entitled to a **non-contributory invalidity pension** if certain conditions are met.

Degree of incapacity

The general social security scheme distinguishes four levels of incapacity:

- partial permanent incapacity to perform your normal occupation (*incapacidad permanente parcial para la profesión habitual*), defined as being able to work at your normal occupation with less than two thirds of your normal efficiency,
- total permanent incapacity to perform your normal occupation (*incapacidad permanente total para la profesión habitual*), defined as being unable to work at your normal occupation but able to do some other kind of work,
- absolute permanent incapacity (*incapacidad permanente absoluta*), when there is permanent total loss of working capacity to perform any kind of work,
- severe invalidity (*gran invalidez*), defined as incapacity which demands that the person needs constant assistance with the most basic actions of daily life, e.g. eating, dressing, etc.

What is covered?

Cash benefits

In case of partial permanent incapacity to perform your normal occupation, the benefit is a lump-sum compensation equal to 24 times the calculation basis of the [benefit for temporary incapacity](#).

For total permanent incapacity, the benefit is a pension equal to 55% of the corresponding calculation basis. For persons 55 years of age or over who have difficulty finding work, the amount of the pension is increased to 75% of the calculation basis. The pension may, at the request of the beneficiary, be redeemed by a lump-sum payment equal to 84 times the monthly pension (minus 12 months for every year the claimant's age exceeds 54 years, subject to a minimum of 12 months).

For absolute permanent incapacity to perform any kind of work, the benefit is a pension equal to 100% of the calculation basis.

For severe invalidity, the benefit is a pension payable for absolute permanent incapacity with a supplement (45% of the minimum contribution base for the year plus 30% of the worker's contribution base).

Minimum and maximum pension amounts exist.

Rehabilitation

Medical treatment (functional rehabilitation), vocational guidance, vocational training (rehabilitation for habitual occupation or retraining for another occupation) are available.

In addition, quotas may be established for the employment of disabled workers (e.g. 2% of working places in companies with more than 50 workers).

Companies employing disabled workers are eligible for incentives in the form of social security contribution relief. Encouragement is given in the form of subsidies and

tax/contribution relief to schemes in which firms create sheltered employment centres for disabled workers.

How are invalidity benefits accessed?

Permanent incapacity is assessed by the Disability Evaluation Board (EVI). Review of invalidity is possible at any time up to the minimum retirement age.

Chapter VI: Old-age pensions and benefits

When are you entitled to old-age benefits?

Contributory retirement pensions

Persons aged 65 years (with 35 years and 3 months of contributions) or 65 years and one month (with less than 35 years and 3 months of contributions) who are registered with a social security scheme or are in an equivalent situation (e.g. involuntarily unemployed), who have paid social security contributions for at least 15 years - two of them in the 15 years immediately preceding their retirement - and who retire from employment, are entitled to a contributory retirement pension (*pensión de jubilación*). The same contribution period is required for persons who at the date of their retirement are not affiliated with a social security scheme or in an equivalent situation.

There are specific provisions for self-employed persons and for civil servants.

Early, partial and flexible pensions

Persons in occupations classified as arduous, toxic, unhealthy or hazardous (coal miners, railway workers, flight crews and sea workers), and persons with a degree of incapacity of 45% implying a reduction in life expectancy, or in certain cases 65% or more, may retire on full pension before the legal age of retirement. The number of 'bonus days' earned in certain categories or specialisations is determined by applying the specific coefficient.

Persons who paid into a private pension plan before 1967 may retire at the age of 60 with a proportionally reduced pension.

Workers who have paid 33 years of contributions, who have been registered for 6 months with an employment agency and who are involuntarily unemployed, may apply for a reduced pension 4 years before the legal age of retirement.

Workers who have paid 35 years of contributions and have the right to a pension exceeding the minimum pension amount may retire voluntarily 2 years before the legal age of retirement.

Workers are entitled to a partial pension (*pensión de jubilación parcial*) as from the age of 61 and one month and until they reach the generally recognised retirement age if, among other requirements:

- they have concluded a part-time employment contract with their employer, reducing their working hours and salary by between 25 and 50%;
- the employer simultaneously concludes a bridging contract with a job-seeker, whose working time must be compulsorily insured until the retirement date of the worker he is replacing (this is not necessary when the partial retiree has reached the legal age of retirement).

Spain also has a flexible pension scheme, under which persons receiving retirement pensions can work part-time (between 25 and 50% of a working day), in which case their pension will be reduced proportionally.

Non-contributory old-age pension

Elderly persons living on low incomes who have never paid social security contributions, or have not done so for long enough to be eligible for a contributory pension, may be entitled to a [non-contributory old-age pension](#).

What is covered?

Contributory retirement pensions

For fifteen years of insurance contributions, the pension amounts to 50% of the calculation basis. The percentage increases progressively until reaching 100% after 35.5 contribution years.

The calculation basis is determined by dividing the person's contribution bases for the 192 months preceding the one previous to his or her retirement by 224. The contribution bases for the 24 months immediately before retirement are counted at face value, and the rest are adjusted on the basis of the consumer price index.

Employees over the legal age of retirement with more than 15 contribution years who continue working are entitled to a 2-4% increase of the pension amount for each complete additional contribution year credited between the legal age of retirement and the effective retirement, depending on the years of contribution.

A minimum pension (*pensión mínima*) and maximum pension (€ 2,548.12 per month) are set. Pension is paid 14 times a year.

Pre-retirement benefits

This is an area that is still largely unregulated. Pre-retirement schemes are private plans and have nothing to do with the ordinary social security retirement pensions. Although careless use of the term has led to confusion, people on pre-retirement schemes are not in fact retired.

A pre-retirement scheme may be defined as an agreement between the company and an employee who has not yet reached retirement age, by which the latter stops working in return for an assured income similar to that which he or she previously enjoyed, until he or she does. The fact that he or she has stopped working does not entitle him or her to a retirement pension. Their financial situation is guaranteed either by means of compensation paid by the company or by means of benefits and unemployment allowances paid by the State Public Employment Institute (*Servicio Público de Empleo Estatal*, SPEE), or by a combination of the two. During this period, the worker signs a special agreement with the General Social Security Revenue Office to pay his or her social security contributions until he or she reaches the retirement age.

How are old-age benefits accessed?

Old-age benefit should be applied for at the competent social security administration. The [National Social Security Institute](#) (*Instituto Nacional de la Seguridad Social - INSS*) is responsible for granting and calculating contributory retirement pensions and

the [Institute for Elderly and Social Services](#) (*Instituto de Mayores y Servicios Sociales - IMSERSO*) administers, with the Autonomous Communities, pensions paid under the non-contributory scheme.

Chapter VII: Survivors' benefits

When are you entitled to survivors' benefits?

Qualifying conditions

Death grants and survivors' pensions are paid to the survivors of a deceased insured person if the latter was:

- registered with a social security scheme or was in an equivalent situation and had paid contributions for at least 500 days in the five calendar years before his or her death. This is the case when death was caused by a non-occupational disease. A minimum insurance period is not required, if the death occurred due to a non-occupational accident, an accident at work or an occupational disease. It is also not needed to allow entitlement to an orphans' pension;
- no longer registered with a social security scheme or in an equivalent situation, but had paid social security contributions for a minimum of 15 years;
- receiving a contributory retirement or permanent incapacity pension;
- receiving temporary incapacity benefits, risk during pregnancy benefits, risk during breastfeeding, paternity or maternity benefits, or has
- disappeared following an accident at work or other accident in circumstances justifying the presumption of death and there was no news of the missing person for 90 days after the accident. In this case, the survivors are not entitled to a death grant.

Surviving spouse

With certain specific exceptions, a person who was married to the deceased and who has not remarried is entitled to a survivor's pension. This applies to the surviving spouse and to those who were divorced or separated or whose marriage was annulled. In some cases, the amount of the pension will be proportional to the length of time the spouses lived together.

Under certain conditions, an unmarried partner may also be entitled to a widow's or widower's pension.

Surviving children

Children of the deceased, whatever the legal nature of their affiliation, and in certain circumstances the children of the surviving spouse, are entitled to an orphan's pension, provided that at the date of the parent's death they are:

- under 21 years of age, or are over that age but are unable to work because of absolute permanent incapacity or severe invalidity;
- are under 24 years of age (or 25 years if both parents are dead or they are disabled in a degree of 33% or more), when their earnings do not exceed the minimum wage (*salario mínimo interprofesional*).

Other family members

Benefits in the form of a pension or temporary allowance may be granted under certain conditions to other family members (e.g. parents, grandparents, grandchildren, siblings) if they were dependent on the deceased, are not entitled to a public pension and lived with the deceased for at least two years prior to the death.

What is covered?

Widow's or widower's pension

The amount of this pension (*pensión de viudedad*) is calculated on the basis of 52% of the corresponding calculation basis, which depends on the employment status of the deceased (actively employed or pensioner – for the latter the calculation basis is the same as for retirement or invalidity pension) and the cause of death (whether work-related or non-work-related). When the beneficiary has dependants and a certain level of income, this percentage may be increased to a maximum of 70%.

The pensions payments cease if the surviving spouse remarries (with certain exceptions, e.g. if he or she is older than 61 or incapacitated by more than 65%, and the spouses have a fairly low income).

Orphan's pension

The amount of the pension for each orphan (*pensión de orfandad*) is calculated in the same way as the widow's or widower's pension, applying a factor of 20% of the corresponding calculation basis. If there is no surviving spouse, the amount of that entitlement is added to the orphan's pension (i.e. an increase of 52 or up to 70%).

If there are several beneficiaries, the sum of the orphan's pension and the widow(er)'s pension should as a rule not exceed 100% of the calculation basis (with certain exceptions). If the child is bereaved of both parents, a certain increase can only be applied to the pension generated by one of the deceased parents.

The orphan's pension ceases when the child reaches a certain age. It may also be that the incapacity which had enabled entitlement ceases to exist, or the beneficiary becomes adopted or married (in which case the entitlement still remains for those with absolute permanent incapacity or severe invalidity). The pension stops being paid if the beneficiary dies or if a worker who was missing and presumed dead after an accident is then found to be alive.

Pensions and temporary benefits for other family members

Under certain conditions a pension for family members (*pensión en favor de familiares*) is provided. It amounts to 20% of the calculation basis.

Similar rules apply to the temporary allowance for family members, which is paid for a maximum of 12 months (*subsídio temporal en favor de familiares*).

The sum of all survivors' benefits cannot exceed 100% of the calculation basis, with some exceptions.

Death grants

A death grant (*auxilio por defunción*) is always paid, whatever the cause of death.

The death grant of € 46.41 is intended to cover part of the funeral expenses. It is the sole benefit granted by the social security system for that purpose.

How are survivors' benefits accessed?

Survivors' pensions and benefits should be applied for at the competent social security administration. The [National Social Security Institute](#) (*Instituto Nacional de la Seguridad Social - INSS*) is responsible for granting such benefits.

Chapter VIII: Benefits in respect of accidents at work and occupational diseases

When are you entitled to benefits in respect of accidents at work and occupational diseases?

The Spanish social security system does not make separate provision for accidents at work and occupational diseases. The worker concerned will, however, receive specific benefits in addition to those described above.

An accident at work may be a bodily injury suffered by the worker during the course of work or resulting from his or her job or an illness that cannot be classified as occupational because it is not on the official list of occupational diseases but is clearly the result of duties inherent in his or her job. Accidents suffered *in itinere* (on the way to or from work) are also considered work-related.

An occupational disease is one that is on the official list of occupational diseases and is related to the main activities liable to lead to such disease.

What is covered?

Healthcare

For the most part, healthcare is provided as described in the part on [healthcare](#), and always as broadly as possible. As a rule it is provided without copayments. Healthcare includes free medicinal products in certain cases, as well as all the benefits connected with rehabilitation programmes. Certain institutions are specialised for the treatment and rehabilitation of victims of employment injury or occupational disease.

Cash benefits

If the incapacity is the result of an accident at work or an occupational disease, employees are always considered as contributing subscribers and, depending on the case, the benefits will be paid out by either the employer or the social security service. No prior insurance period is required.

As a general rule, temporary incapacity benefits are paid after a waiting period of three days. This does not apply if the temporary incapacity is work-related.

For work-related injury or occupational disease, the benefits are paid from the day after the patient stops work as certified by the physician (the same applies for voluntarily insured self-employed persons). The amount of the benefit is 75% of the calculation basis.

For temporary incapacity resulting from an accident at work or an occupational disease, compensation is paid in accordance with the rules mentioned in the part on [sickness – cash benefits](#).

For permanent incapacity benefits please consult the part on [invalidity](#).

A lump-sum benefit may also be granted in case of permanent bodily injury, mutilation or deformation resulting from an accident at work or occupational disease that diminishes physical integrity without causing permanent incapacity (*lesiones permanentes no invalidantes*), as long as the injury in question is on the official list.

Special lump-sum payment

If an accident at work or an occupational disease results in the death of the insured, a lump-sum grant is provided in addition to the general survivors' benefits described in the part on [survivors](#).

The surviving spouse and, if applicable, partner or ex-spouse, receives a sum equal to six times the corresponding calculation basis. Each orphan receives the equivalent of the calculation basis corresponding to a single month. If there is no surviving spouse, partner or ex-spouse, the corresponding sum is divided among the orphans. If there is neither spouse nor orphans entitled to receive death and survivor's benefits and the deceased leaves one or both parents who are dependent on him/her, they will receive twelve times the monthly calculation basis, if both are living (and nine times, if just one is still living).

Employer's negligence

All the benefits paid out for an accident at work or occupational disease are increased by 30 to 50%, if the accident or disease occurred due to negligence on the part of the employer who was not fully respecting the occupational health and safety measures.

Benefits related to accident at work or occupational disease are paid whether or not the employer has fulfilled his insurance obligations towards the worker.

How are benefits in respect of accidents at work and occupational diseases accessed?

The beneficiary can freely choose a physician, but if a hospital is required, this will be assigned to him or her.

Cash benefits have to be requested at the competent social security administration (normally [National Social Security Institute](#), *Instituto Nacional de la Seguridad Social - INSS*).

Chapter IX: Family benefits

When are you entitled to family benefits?

Persons working and/or resident in Spain may be entitled to family benefits for each dependent child of the family under the age of 18 or over that age but disabled to a degree of at least 65%, and for minors in permanent or pre-adoptive foster care. If both parents are deceased or have abandoned their children, the benefits are paid directly to the children.

Unless a child is disabled, family benefits are not paid when the family income exceeds a certain amount (i.e. € 11,490.43, increased to € 17,293.82 for families with three dependent children and by a further € 2,801.12 for each subsequent dependent child.)

What is covered?

Child benefit (*prestaciones por hijo a cargo*) is paid 12 times a year. Its amount varies with age and according to whether the child has a disability. For instance, the highest benefit (€ 547.40) is paid for children above 18 years of age and incapacitated above 75%.

The first three years of parental leave (*excedencia por cuidado de hijo*) to which employees are entitled under labour legislation to care for each natural, adopted or foster child, or the first year of leave to take care of a family member (*excedencia por cuidado de familiares*) to the second degree of kinship by blood or by marriage who, by reason of age, accident, illness or handicap is not self-sufficient and is earning no income, count as a contribution period for social security purposes with regard to maternity, paternity, permanent incapacity, retirement, death and survivors' benefits.

Lump-sum benefits are also paid in case of multiple births or adoptions, and in case of large families, single parents or disabled mothers.

How are family benefits accessed?

Family benefits have to be claimed at the competent social security administration. The [National Social Security Institute](#) (*Instituto Nacional de la Seguridad Social - INSS*) is responsible for granting all family benefits (in all schemes, including the special scheme for sea workers).

Chapter X: Unemployment

When are you entitled to unemployment benefits?

Persons who are unemployed but are able and willing to work, or who have been made redundant, or whose working hours (and corresponding wages) have been reduced by at least 10% (maximum 70%), as a result of downsizing, are entitled to unemployment benefits. Unemployment may be total or partial. Unemployment benefits are of two types: contributory unemployment benefits and special unemployment assistance.

Unemployment benefit

A person is entitled to unemployment benefit if he or she:

- is registered with a social security scheme that covers this risk, or is in an equivalent situation;
- is legally unemployed, actively seeking work and willing to accept suitable employment;
- has paid social security contributions for at least 360 days in the six years before becoming unemployed or before the end of his/her obligation to pay contributions;
- is above 16 and under the legal age of retirement, unless he/she does not yet qualify for a retirement pension;
- there is no concurrent disqualifying factor.

Unemployment assistance

Unemployment assistance is provided in a form of unemployment allowance and active integration income.

A special unemployment allowance may be paid to those who are not entitled to contributory benefits because they have not paid enough insurance contributions, and to those whose entitlement to contributory benefit has run out but who are still unemployed. Non-contributory benefits are paid solely to job-seekers whose income is less than 75% of the monthly guaranteed minimum wage (*salario mínimo interprofesional*), who have been signed up with an employment agency for one full month and who have not refused a suitable job offer or an SPEE vocational training programme.

The beneficiary must also meet certain other qualifying conditions:

- s/he must have dependants and have exhausted the entitlement to contributory unemployment benefit; or
- s/he must be more than 45 years of age, without dependants, and have received contributory benefits; or
- s/he must be more than 55 years of age and be otherwise (except for age) entitled to a retirement pension; or
- s/he must not be entitled to contributory unemployment benefit because s/he has paid contributions for more than three months (with family responsibilities) or more than six (without family responsibilities) but less than 12 months, or
- s/he is an emigrant returning from a country with which there is no unemployment insurance convention, or is a released prisoner.

Active integration income may be provided to long-term unemployed persons over 45 years of age (but below 65 years). It might also be provided, among others, to emigrant workers over 45 who are returning from abroad who have worked out of the country for at least six months, to disabled persons, and to victims of gender or domestic violence.

What is covered?

Unemployment benefit

The amount of the unemployment benefit (*prestación por desempleo*) varies, depending on the number of dependants, within certain minimum and maximum levels. For total unemployment, the benefit is 70% of the calculation basis for the first 180 days and 60% of the calculation basis after that. The calculation basis is the average of the contribution bases for the six preceding months. Minimum and maximum benefits are stipulated.

For partial unemployment, the benefits are reduced proportionally.

Persons entitled to unemployment benefit are also entitled to medical care. With regard to other social security benefits, the period while they are receiving unemployment benefit counts as an insurance period.

The duration of unemployment benefit depends on how long the person has been paying social security contributions over the preceding six years. If contributions were paid for at least 360 days, unemployment benefit may be received for up to four months. If they were paid for more than 2,160 days, unemployment benefit may be received for up to two years.

Unemployment assistance

Special **unemployment allowance** (*subsídio por desempleo*) is normally paid for six months with possible extensions in six-month periods, up to a total of 18 months (further extensions are possible in specific cases). A wage-earner over 55 years of age who meets the legal requirements may receive this allowance until he or she begins receiving a retirement pension.

As a general rule, a non-contributory unemployment allowance corresponds to 80% of the Public Income Rate of Multiple Effects (*Indicador Público de Renta de Efectos Múltiples, IPREM*). In case of allowance for unemployed over 55 years of age the first six months of allowance vary from 80 to 133% of the *IPREM* according to the number of dependent family members.

Beneficiaries are also entitled to medical care.

Active integration income

Active Integration Income (*Renta Activa de Inserción, RAI*) is provided to the amount of 80% of the *IPREM* in force. The *IPREM* amounts to €17.75 per day or €532.51 per month or €6,390.13 per year.

Active integration income is paid for a maximum of 11 months.

How are unemployment benefits accessed?

All unemployment benefits are administered, paid and controlled by the [State Public Employment Institute](#) (*Servicio Público de Empleo Estatal, SPEE*), except for persons covered by the special regime for sea workers, whose benefits are administered by the [Social Institute for Sea workers](#) (ISM).

Chapter XI : Minimum resources

When are you entitled to benefits regarding minimum resources?

Tax-financed means-tested non-contributory benefits are provided for persons in specific situations of need. Benefits are not discretionary and the amounts vary according to different factors.

There is no general non-contributory social assistance scheme. However, a specific non-contributory minimum is provided to certain categories of persons in specific situations of need.

Specific conditions for entitlement to the non-contributory invalidity pension are

- age: the person must be at least 18 years of age and under 65;
- residence: the person must be legally residing in Spain and have been resident in Spain for at least five years, including the two calendar years immediately preceding the date of the application;
- degree of incapacity or chronic illness of at least 65%;
- lacking a sufficient other income.

Specific conditions for entitlement to the non-contributory retirement pension are

- age: the person must be 65 years of age or over;
- residence: the person must be resident in Spain and have been resident in Spain for at least ten years between his or her 16th birthday and the date of retirement, including the two calendar years immediately preceding the date of the application, and
- lacking a sufficient other income.

Unemployed persons legally residing in Spain may be entitled to unemployment assistance in the form of [unemployment allowance and active integration income](#).

A specific minimum is provided for Spanish nationals residing abroad and for returnees. To be entitled, the Spanish national has to reside in a country where the social protection system is unsettled. They have to be over 65 years of age to be entitled to old-age benefits and between 16 and 65 years in order to be entitled to invalidity benefits. Returnees over 65 years of age may be entitled, if they are Spanish nationals, born in Spain and have resided in countries where the social protection systems are unsettled, or are persons of Spanish origin who have resided in Spain for eight years before the claim and held Spanish nationality during this period.

What is covered?

Non-contributory invalidity pension

All disabled residents in need are granted non-contributory invalidity pension (*pensión de invalidez no contributiva*), free medical and pharmaceutical care and supplementary social services, even if they have never paid social security

contributions or have not done so for long enough to entitle them to a contributory pension.

A person with insufficient means is one whose total annual income is less than € 5,108.60. This amount is adjusted according to the size of the domestic unit (it is higher if more family members live together). A domestic unit (economic unit) exists in all cases in which the beneficiary lives with other persons, whether they are beneficiaries or not, linked to them by marriage or blood relationship up to the second degree.

The pension is calculated on an annual basis (€ 364.90 per month; 14 payments, i.e. € 5,108.60 per year).

If there is more than one beneficiary in the economic unit, the amount for each beneficiary is calculated as the result of dividing by the number of beneficiaries the sum of the pension plus 70% of the pension, multiplied by the number of beneficiaries minus one.

The beneficiary's annual income or revenues must not exceed the yearly amount of the non-contributory pension by more than 35%. If this is the case, the non-contributory pension should be reduced accordingly. Nevertheless, the pension amount may not be below one quarter of the full pension sum (i.e. € 1,277.15 per year).

When the degree of invalidity is 75% or more, and assistance from other persons to perform the most essential basic functions is required, the pension amount is supplemented by 50% of its value.

Non-contributory retirement pension

All retired persons in need are granted cash benefits, free medical and pharmaceutical care and supplementary social services, even if they have never paid social security contributions or have not done so for long enough to entitle them to a contributory pension.

The same rules for calculating the non-contributory invalidity pension (mentioned above) also apply to the non-contributory retirement pension (*pensión de jubilación no contributiva*).

Unemployment assistance

The calculation of unemployment allowance and active integration income is described in the part on unemployment.

Minimum for Spanish nationals residing abroad and returnees

The Minimum for Spanish persons residing abroad and returnees (*prestación por razón de necesidad a favor de los españoles residentes en el exterior y retornados*) is calculated in two ways. For Spanish nationals residing abroad, assistance is determined annually by the General Emigration Office (*Dirección General de Emigración*). Returnees are entitled to the amount equalling the non-contributory retirement pension. This amount is paid 12 times a year (and not 14 times as with non-contributory pensions).

Housing allowance

Housing allowances are aimed at easing the cost of the rent when the beneficiary fulfils, among others, the following conditions:

- is entitled to a non-contributory old-age or invalidity pension,
- lacks home ownership,
- is not a third degree relative of the owner.

Housing allowance amounts to € 525 per year.

Social services

The Spanish social security system administers the following social services: places in homes for the elderly, home help, vacations and stays in spa establishments, networks of centres and hostels for seniors, places in centres for the physically and mentally disabled, and healthcare (treatment and rehabilitation).

Sea workers who, because of their work, have to remain for some time in a Spanish port, will find special social services, information and financial assistance in the network of "Sea workers' Houses" (*Casas del Mar*) covering all the principal ports.

How are minimum resources benefits accessed?

Non-contributory invalidity and retirement pensions are organised regionally, and unemployment assistance and the Minimum for Spanish persons residing abroad and returnees are organised centrally.

Non-contributory pensions are recognised by the Autonomous Communities (*Comunidades Autónomas*) that have had the functions of the [Institute for Elderly and Social Services](#) (*Instituto de Mayores y Servicios Sociales - IMSERSO*) transferred to them.

Beneficiaries of these pensions are obliged to report within 30 days any changes in their situation which may affect the pension entitlement or amount. They have to submit a statement of their last year's income of the domestic unit in the first quarter of each year. These data can be verified with the Tax Administration.

Unemployment assistance should be claimed at the State Public Employment Service (*Servicio Público de Empleo Estatal - SPEE*) and Minimum for Spanish persons residing abroad and returnees at the Emigration General Office (*Dirección General de Emigración*).

Inquiries on specific social services should be addressed to *IMSERSO* and for sea workers to the Social Institute for Sea workers (*Instituto Social de la Marina - ISM*).

As a general rule, recovery of benefits from the beneficiary is mandatory in cases of error, fraud or failure to inform the services of a change of circumstances.

Chapter XII: Long-term care

When are you entitled to long-term care?

A person who lacks or loses his or her physical, mental, intellectual or sensorial autonomy due to age, disease or incapacity, and requires assistance from another person to carry out essential daily activities (or, in the case of persons with a mental disability or illness, other forms of support for their personal autonomy) may be entitled to long-term care benefits.

It is provided to Spanish citizens who have legally resided in Spain for at least five years, two of which must immediately precede the date of submission of the application. Returned Spanish emigrants may also be entitled. Returned Spanish emigrants may also be entitled.

Benefits are conditional upon income and personal assets not exceeding a certain level. Another condition is that the person must require assistance at least once a day in carrying out the most essential daily activities.

A distinction is made between three degrees of dependency (*grados de dependencia*):

- Degree I, moderate dependency (care is required at least once a day);
- Degree II, great dependency (care is required more than twice a day);
- Degree III, severe dependency (continuous care is required).

Each degree further includes two (sub)levels.

There are no age conditions, but special provisions apply to children below three years of age.

What is covered?

Either benefits in kind or cash benefits may be provided. However, there is no free choice between the two forms of benefits. In addition, combined accumulation of cash benefits with benefits in kind is not allowed; cash benefits are granted only when benefits in kind cannot be provided (e.g. due to lack of capacity).

Benefits in kind

Different forms of assistance in the home of the dependent person are provided among the benefits in kind. The beneficiary may also be entitled to tele-assistance and preventive measures.

Attendance at day and night-care centres is provided as a form of semi-residential care. The duration and the type of care depend on the individual needs of the beneficiary.

Residential long-term care is provided in special institutions, mainly old-age homes and centres for the disabled.

The beneficiary might be required to cover part of the service costs, but this participation depends on the type and cost of the service and on the personal financial situation of the beneficiary.

Cash benefits

The amounts of long-term care benefits in cash are fixed by law and vary according to the degree of dependency. The maximum monthly amount is € 833.96.

Cash benefits are reduced by the amount of any other given public benefit of a similar nature and purpose. In particular, long-term care cash benefits are incompatible with: the contributory additional amount awarded on account of severe invalidity; non-contributory additional amounts for a disabled dependent son/daughter over 18 years of age with a degree of disability of at least 75%, and requiring the assistance of another person; the allowance (e.g. to a non-contributory invalidity pension) for assistance provided by a third person.

How is long-term care accessed?

The evaluation board of the Autonomous Communities (*Comunidades Autónomas*), composed of health and social professionals, evaluates the degree of dependency on the basis of a scale according to the International Classification of Functioning, Disability and Health (ICF) of the World Health Organisation. Periodic reassessments are possible.

Care may be provided by professional providers, i.e. institutions and home care providers, of a public, private or semi-public nature. Relatives and people close to the beneficiary may act as informal caregivers.

Cash benefits are granted to the beneficiary, who pays the informal caregiver. The latter is mandatorily covered by the Social Security System.

Annex: Useful addresses and websites

More detailed information on qualifying conditions and individual social security benefits in Spain can be obtained from the public institutes managing social protection system.

For social security issues concerning more than one EU country, you may search for a contact institution on the Institutions' directory maintained by the European Commission and available at: <http://ec.europa.eu/social-security-directory>.

Enquiries concerning the effect on benefits of insurance in two or more Member States should be addressed to:

Ministry of Employment and Social Security

Ministerio de Empleo y Seguridad Social

Agustín de Bethencourt, 4

28071 Madrid

Tel.: +34 91 3630000

Fax: +34 91 5332996

E-mail: informacionmtin@meyss.es

<http://www.mtin.es>, <http://www.meyss.es>

Ministry of Health, Social Services and Equality

Ministerio de Sanidad, Servicios Sociales e Igualdad

Paseo del Prado, 18-20

28071 Madrid

Tel.: +34 91 596 10 00

Fax: +34 91 596 44 80

E-mail: oiac@msssi.es

<http://www.msssi.es>

General Social Security Revenue Office

Tesorería General de la Seguridad Social

Plaza de los Astros, 5 y 7

28007 Madrid

Tel.: +34915038000

Fax: +3491 503841 +3491 5038412

<http://www.seg-social.es>

National Social Security Institute

Instituto Nacional de la Seguridad Social

c/ Padre Damián, 4

28036 Madrid

Tel.: 34915688300

Fax: 34915640484

<http://www.seg-social.es>

National Institute for Health Management

Instituto Nacional de Gestión Sanitaria

c/ Alcalá, 56

28071 Madrid

Tel.: +34 91 3380365

Fax: +34 91 3380853

E-mail: informacioningesa@ingesa.msssi.es

<http://www.ingesa.msssi.es>

Institute for Elderly and Social Services

Instituto de Mayores y de Servicios Sociales

Avda. de la Ilustración s/n con vta. A Ginzo de Limia, 58

28029 Madrid

Tel.: + 34 901 109 899

Fax: +34 91 7033595

E-mail: buzon@imserso.es

<http://www.imserso.es>

<http://www.dependencia.imserso.es>

State Public Employment Service

Servicio Público de Empleo Estatal

c/ Condesa de Venadito, 9

28027 Madrid

Tel.: +34 91 5859888

Fax: +34 91 4080017

E-mail: inem@inem.es

<http://www.sepe.es>

Social Institute for Sea workers

Instituto Social de la Marina

C/ Genova, 24

28004 Madrid

Tel.: +34917006600

Fax: +34 91 7006716

<http://www.seg-social.es>