

CARING FOR THE INJURED AND ILL SEAFARER: The POEA contract



DEL ROSARIO & DEL ROSARIO

15/F Pacific Star Building , Makati Avenue, 1200 Makati City, Philippines

www.delrosariolaw.com 24/7 Mobile: 63 917 830 8384

florencio.aquino@delrosariolaw.com



Governing Philippine Laws:

- **The Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022 (Amended Migrant Workers Act or AMWA)**
 - **Applicable to all Overseas Filipino Workers (OFWs)**
- **Standard Terms and Conditions Governing the Overseas Employment of Seafarers On-Board Ocean-Going ships (2010 POEA Standard Employment Contract)**
 - **Tripartite Agreement**
 - **Seafarers represented by Unions (ie AMOSUP-ITF)**
 - **Shipowners/managers represented by Manning Agents**
 - **Government represented by the Philippine Overseas Employment Administration (POEA)**
 - **Regularly Reviewed and Amended**
 - **2010 version incorporates AMWA and MLC**



General Duties of Principal/Employer

- Faithfully comply with POEA contract
 - expeditious settlement of valid claims of the seafarer.
- Extend coverage to the seafarers under the Philippine Social Security System (SSS), Philippine Health Insurance Corporation (PhilHealth), Employees' Compensation Commission (ECC) and Home Development Mutual Fund (Pag-IBIG Fund).
- Provide a seaworthy ship and take all reasonable precautions to prevent accident and injury to the crew including provision of safety equipment, fire prevention, safe and proper navigation of the ship and such other precautions necessary to avoid accident, injury or sickness to the seafarer.
- Provide a workplace conducive for the promotion and protection of the health of the seafarers in accordance with Title 4 of the ILO Maritime Labor Convention, 2006.

(Section 1A of the 2010 POEA Contract)



Pre-deployment Safeguards:

- Compulsory Insurance Cover from accredited Philippine Insurance Company (or proof of equivalent cover from foreign insurers or P&I Club)
 - No insurance cover, No approved Contract of Employment
- Solidary liability of Philippine Manning Agents with Foreign Employers/ Principal for crew claims
- Philippine Manning industry is highly regulated by the POEA
 - Regular Spot checks
 - Manning License is only valid for a fixed period but subject to renewal
 - Suspension/cancellation of manning license and/or other administrative penalties for violation of the POEA contract, POEA rules and non-payment of valid claims including suspension/ cancellation of accreditation of foreign principal/ employer



Compulsory Insurance: Minimum Medical Benefits

- Medical evacuation under appropriate medical supervision by the mode of transport necessary, regardless of the cost
- Compassionate visit
 - hospitalized or will be confined for 7 or more consecutive days
 - visit by 1 family member or a requested individual
 - transportation cost to closest major airport regardless of cost
- Medical repatriation, under medical supervision if necessary, to the seafarer's residence at such time that he/she is medically cleared for travel by commercial carrier
 - If the period to receive medical clearance to travel exceeds fourteen (14) days from the date of discharge from the hospital, an alternative appropriate mode of transportation, such as air ambulance, may be arranged.
 - Medical and non-medical escorts may be provided



(Guideline VII, Sec. 1: INSURANCE GUIDELINES ON RULE XVI OF THE OMNIBUS RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT 8042, AS AMENDED BY RA 10022 RELATIVE TO COMPULSORY INSURANCE COVERAGE FOR OFWs)

Compulsory Insurance: Minimum Medical Benefits

- In case of death, repatriation of the worker's remains / belongings
 - render any assistance necessary in the transport
- No Fault death/ disability compensation (minimum):
 - Accidental death - US\$15,000.00
 - Natural death - US\$10,000.00
 - Permanent total disablement - US\$7,500.00
 - Following disabilities deemed permanent:
 - total complete loss of sight of both eyes
 - loss of two limbs at or above the ankles or wrists
 - permanent complete paralysis of two limbs
 - brain injury resulting to incurable imbecility or insanity
- Seafarer or his heirs should not be made to advance expenses

(Guideline VII, Sec. 1: INSURANCE GUIDELINES ON RULE XVI OF THE OMNIBUS RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT 8042, AS AMENDED BY RA 10022 RELATIVE TO COMPULSORY INSURANCE COVERAGE FOR OFWs)



Medical Benefits under POEA Contract

General Requirements:

1. Work- Related
 - Presumed work – related
2. suffered during the term of his/her contract
 - From departure from the point of hire until return to the point of hire (ie Airport to Airport)
3. Post-employment medical examination by a company-designated physician within three working days upon repatriation
 - except when physically incapacitated, in which case, a written notice to the agency within the same period is deemed as compliance
4. In the course of the treatment, the seafarer shall report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer



(SEC 20. 2010 POEA Contract)

Medical Benefits under POEA Contract for work-related injury / illness

1. Continued payment of wages while still on board
2. Full cost of medical, serious dental, surgical and hospital treatment in a foreign port including board and lodging until declared fit or to be repatriated
 - Continued treatment arising from said injury / illness after repatriation, if still necessary, until declared fit or the degree of his disability has been established by the company-designated physician
3. Sickness allowance equivalent to basic wage from signed off until declared fit to work or the degree of disability has been assessed
 - Maximum 120 days
 - Paid no less than once a month
4. Cost of prescribed medicines
5. Compassionate Visit
6. Reasonable cost of actual traveling expenses and/or accommodation



(SEC 20A. 2010 POEA Contract)

Medical Benefits under POEA Contract

7. Copy of all pertinent medical reports or any records, if requested, will be provided at no cost to the seafarer
8. Full cost of repatriation in case a seafarer is disembarked from the ship for medical reasons and the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former ship or another ship of the employer
 - provided with accommodation and food, allowances and medical treatment, if necessary, until he arrives at the point of hire.
9. Disability Compensation payable for permanent total or partial disability
 - based solely on disability grading provided under the schedule of disability in Sec. 32, POEA contract
 - Not length of treatment
 - computation governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted



(SEC 20. 2010 POEA Contract)

General Exclusions under the POEA contract:

- No compensation and benefits shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his willful or criminal act or intentional breach of his duties, provided however, that the employer can prove that such injury, incapacity, disability or death is directly attributable to the seafarer.
- A seafarer who knowingly conceals a pre-existing illness or condition in the Pre-Employment Medical Examination (PEME) shall be liable for misrepresentation and shall be disqualified from any compensation and benefits. This is likewise a just cause for termination of employment and imposition of appropriate administrative sanctions.

(SEC 20. 2010 POEA Contract)





***Thank You and Have
a Great Day !***

joseph.rebano@delrosariolaw.com
mail@delrosariolaw.com

www.delrosariolaw.com
www.delrosario-pandiphil.com

