प्रति,
समस्त मुख्य विकित्सा एवं स्वास्थ्य अधिकारी
जिला स्वास्थ्य समिति
मध्यप्रदेश।

विषय :– राष्ट्रीय स्वास्थ्य मिशन अन्तर्गत ई.एस.आई. (ESI) के संबंध में।

संदर्भ :– अपर सचिव एवं मिशन विदेशक (स.सचि.के.) का अद्वैतस्वास्थीय पत्र क्रमांक G-
27034/182/2018/NHM(F) दिनांक 02 अगस्त 2019।

उपरोक्त संदर्भित पत्र के माध्यम से अग्रणी कराया गया है कि राज्य स्वास्थ्य समिति
एवं जिला स्वास्थ्य समिति के अन्तर्गत केवल ऐसे कर्मचारी जिन्हें ESI Act 1948 के अन्तर्गत
पंजीयन संस्थाओं के माध्यम से नियोजित किया गया है, को ही ESI योजना का लाभ दिया
जा सकता है। अतः पत्र में दिये गये निर्देशों का पालन दुरीशित किया जायें।

संलग्न:– उपरोक्ताबुद्धि

(संजय श्रीवास्तव)
संचालक वित्त
एन.एच.एम., म.प्र.

पू.क्रमांक/एन.एच.एम./वित्त/2019/ 9541

प्रतिलिपि :- सूचनार्थ प्रेषित।

1. समस्त जिला कलेक्टर एवं अध्यक्ष जिला स्वास्थ्य समिति, मध्यप्रदेश।
2. अपर मिशन संचालक, एन.एच.एम., मध्यप्रदेश।
3. मुख्य प्रशासकीय अधिकारी, एन.एच.एम. मध्यप्रदेश।
4. समस्त केंद्रीय संयुक्त संचालक स्वास्थ्य सेवायें, मध्यप्रदेश।
5. समस्त पंजीयन सर्जन सह मुख्य अस्पताल अधिकारी, मध्यप्रदेश।
6. समस्त उधिन्द विकित्सा अधिकारी, मध्यप्रदेश।

संचालक वित्त
एन.एच.एम., म.प्र.
Dear Colleagues,

This is in reference to the clarification on the applicability of the ESI Act, 1948 regarding coverage for the NHM Staff forwarded to the Employees State Insurance Corporation (Ministry of Labour and Employment) vide D.O. letter of even no. dated 27th June 2019.

In this context, the reply has been received from Employees State Insurance Corporation (Ministry of Labour and Employment) vide No. X-11/14/11/2016 – P&D dated 17th July, 2019 stating that the Employees States Insurance Scheme of India is a multi-dimensional Social Security Scheme which is uniformly applicable to employees of factories and notified establishments, located in implemented area who is earning wages up to Rs. 21,000/- per month (Rs. 25,000/- in case of differently abled employees). Furthermore, all casual and contractual staff engaged by NHM are coverable under the ESI Act, 1948, provided they are engaged through a contractor registered under ESI Act, 1948 and not directly as contract workers by the State/District Health Societies. All the State/ District Health Societies should be informed that the ESI Act, 1948 is not applicable to those contractual employees that are directly engaged on contract by them.

Therefore, all the States/UTs are requested to follow the guidelines and clarifications provided by the Ministry of Labour and Employment letter (copy enclosed) for applicability of ESI Act.

Encl: As Above

Yours faithfully,

[Manoj Jhalani]

Addl. Chief Secretary/ Principal Secretary/ Secretary (Health and Family Welfare) - All States/UTs

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स्वच्छ भारत—स्वस्थ भारत

Telefax : 23063687, 23063693 E-mail : manoj.jhalani@nic.in
No. X-11/14/11/2016 - P&D

To

Shri Manoj Jhaiani
Addl. Secretary & Mission Director (NHM)
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi - 110 011

Dated: 17.07.2019

Sub: Coverage of contractual staff who are drawing wages up to Rs. 21,000/- per month under NHM issued by the Ministry of Labour & Employment - reg.

Sir,

I am directed to refer to DO No. G-27034/182/2019/NHM(F) dated 27.06.2019 addressed to the Director General, ESIC and this Office earlier reply vide letter of even no. dated 30.01.2019 elaborating therein the applicability of the Act to above-mentioned subject (copy enclosed).

In this context, it is submitted that Employees' State Insurance Scheme of India is a multidimensional Social Security Scheme tailored to provide social security protection to the 'employees' in the organized sector against the events of sickness, maternity, disablement and death due to employment injury and to also provide medical care to the insured employees and their families. The Act applies to employees of factories and notified establishments, located in implemented area who is earning wages up to Rs. 21,000/- per month (Rs. 25,000/- in case of differently abled employees). ESI Act is uniformly applicable in a notified area to all factories and notified establishments to which it is applicable and there is no provisions to make optional application of ESI Act in the implemented area.

As such, all casual and contractual staff engaged by NHM are coverable under the ESI Act, 1948, provided they are engaged through a contractor registered under ESI Act, 1948 and not directly as contract workers by the State/District Health Societies.

Encl: a/a

Yours faithfully,

(PR Sinha)
Dy. Director (P&D)
No: X-11/14/11/2016 - P&D

To:

Shri Manoj Jhalani
Adviser, Secretary & Mission Director (NHM)
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi - 110 011

Dated: 30.01.2019

Sub: Coverage of contractual staff who are drawing wages up to Rs. 21,000/- per month under NHM issued by the Ministry of Labour & Employment - reg.

Sir,


In this context, it is submitted that:

1. As per Section 1(4) of the ES Act, 1948 applies to all factories and establishments, including factories belonging to the Government, other than Seasonal Factories. A “Factory” as per Section 2(12) is defined as any premises including the precincts thereof where ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or a railway running shed.

2. Apart from factories, ES Act is also applicable to any other establishment, or class of establishments, industrial, commercial, agricultural or otherwise, if the appropriate Government may, in consultation with the Corporation and where the appropriate Government is a State Government, with the approval of the Central Government, after giving one month’s notice of its intention of so doing by notification in the Official Gazette, extends the provisions of the Act to them as per Section 1(4).

3. a) Employee under section 2(9) is defined as:
Any person employed for wages in or in connection with the work of a covered factory or establishment, and:
Directly employed by the Principal employer, on any work of the Factory or establishment within the premises or elsewhere, or in any part, department or branch dealing with administration, purchase of raw materials, sale or distribution of the products of the factory or establishment.
Employees of the immediate employer:
Employed in the premises on any work of the factory or establishment;
Employed outside the premises on any work of the factory or establishment under the supervision of the Principal employer or his agent;
Employees lent or let on hire to the principal employer on any work of the factory, or employees/ professionals on contract of service.
Paid Directors of a company.
Exclusions: (1) An Apprentice engaged under the Apprentice Act 1961 and (2) An employee drawing wages above the ceiling for coverage prescribed by the Central Government. Employees/ Professionals rendering services for contract for service.
b) Immediate Employer under section 2(13) is defined as:

(i) One who executes any work inside the premises of the principal employer of a factory or an establishment to which this Act applies or under the supervision of Principal Employer or his agent if the whole or any part of any work which is ordinary part of the work of the factory or Establishment of the Principal Employer or preliminary to the work carried on in or incidental to the purpose of any such factory or establishment and include a person by whom the services of an employee who has entered into a contract of services with him or let on hire to the Principal Employer (and include a contractor).

(ii) One who executes the work of a factory or establishment outside the premises under the supervision of its principal employer or his agent;

(iii) One who lets on hire the services of his employees to the principal employer of a factory or establishment; and

(iv) A contractor under Section 2(13) of ES Act.

c) Principal Employer under section 2(17) defined as;

(A) In the case of a factory, any of the following:-

(i) Owner;

(ii) Occupier;

(iii) Managing Agent of the owner or occupier;

(iv) Legal representative of a deceased owner or occupier;

(v) Manager of the factory under the Factories Act, 1948;

(B) In the case of establishments belonging to or under the control of the Government of India:

(i) The Specified Authority

(ii) The Head of the Department (In the absence of specified Authority).

(C) In the case of other establishments: Person responsible for the supervision and control of the establishment.

(D) In case of shop (a) Owner (b) Proprietor (c) Partners (d) Management of the Owner.

4. The Act applies to all employees of factories and establishments / factories earning wages up to Rs. 21,000/- per month (Rs. 25,000/- in case of differently abled employees) it applies to employees of factories and establishments / factories earning wages up to Rs. 21,000/- per month (Rs. 25,000/- in case of differently abled employees) located in the notified areas. At present the Scheme is notified in 252 districts and it is proposed to notify the entire nation by 2022.

5. The term “wages” has been defined under Section 2(22) of the Act as all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes 1. (any payment to an employee in respect of any period of authorised leave, lock-out, strike which is not illegal or layoff and) other additional remuneration. If any, 2 (paid at intervals not exceeding two months), but does not include:-

(a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;

(b) any traveling allowance or the value of any traveling concession;

(c) any sum paid to the person employed to defray special expenses entitled on him by the nature of his employment; or

(d) any gratuity payable on discharge;
6. Contribution @ 1.75% is deducted from employee's wages and 4.75% is paid by the Employer as ESI Contribution. However, employees drawing wages upto Rs. 1,76/- per day (under revision to Rs. 1,76/- per day) are exempted from paying their share of contribution.

7. Employees are entitled to various Cash benefits in the event of cessation from work due to sickness (Sickness Benefit), Temporary Disablement, Permanent Disablement, Dependent Benefit, Funeral Expenses, Unemployment Allowance, Maternity Benefit etc. The Employees i.e. Insured Persons and their family are also entitled to Medical benefit in the event of sickness (Primary, Secondary and tertiary).

8. Employees engaged on contractual basis under NHM is coverable under ESI Act, 1948 in view of above provisions. Moreover, NHM is already covered under EPFO.

9. In case, the benefits payable to the Contract Employees of NHM are comparable with or better than those available under ESI Act, then NHM may apply for exemption under Section 27 of the ESI Act from appropriate Government.

Yours faithfully,

(Prinship)

By, Director (P&D)