

Anti-crisis shield solutions for farmers implemented by the Agricultural Social Insurance Fund

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Abstract

The article presents the most important solutions of the anti-crisis shield that have been implemented by the KRUS organizational units. It describes various types of allowances and benefits for farmers and their household members. The Act on specific support instruments in connection with the spread of the SARS-CoV-2 virus provides for the possibility of exempting farmers from paying contributions to KRUS, guarantees childcare allowance, sickness allowance for the quarantine period, and retains the validity of judgments issued on the basis of social insurance regulations. The purpose of the article is to present the principles of granting the above-mentioned benefits, determining their amount and the group of people entitled to receive them, and using reliefs for farmers covered by farmers' social insurance. The summary includes an assessment of the presented solutions.

Keywords: farmer, anti-crisis shield, farmers' social insurance, care allowance, exemption from the obligation to pay contributions.

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Introduction

The special act on the so-called anti-crisis shield provides various types of reliefs and benefits for farmers insured under KRUS. The Act on special support instruments in connection with the spread of the SARS-CoV-2 virus provides for the possibility of exempting farmers from paying contributions to KRUS. It also guarantees a care allowance for people raising children up to 8 years of age or up to 18 years of age in the case of a severe or moderate degree of disability, as well as children with a special education certificate in connection with the temporary closure of a nursery, children's club, kindergarten, school or other institution the child attends. Government Assistance also provides an increased sickness benefit if the incapacity is caused by an infection or respiratory disease marked on the medical certificate as U07 or COVID-19 according to the International Classification of Diseases and Health Problems.

Pursuant to the Act of March 31, 2020, amending the Act on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and emergencies caused by them, and some other acts, farmers were exempted from the KRUS contributions, but only in terms of contributions old-age and disability pension insurance for the second quarter of 2020. This applies to farmers and household members subject to old-age and disability pension insurance, including those subject to this insurance upon application and those for whom the contribution is due in a double amount in connection with running a non-agricultural business or assisting in carrying out this activity. Farmers still have to pay KRUS contributions for accident, sickness, maternity and health insurance.

From May 16, 2020, in accordance with the Act of May 14 this year, KRUS grants an allowance to a farmer and a household member in a situation of compulsory quarantine, epidemiological supervision or hospitalization.

This article aims to present the general terms and conditions for granting the above-mentioned benefits, the group of people entitled to receive them and the rules for determining their amount, as well as using reliefs for farmers covered by farmers' social insurance.

Care allowance for a farmer

Pursuant to the provisions of the Act of March 31, 2020, amending the Act on special solutions related to the prevention, counteracting and combating of COVID-19, and other infectious diseases and emergencies caused by them and certain other acts, as well as the provisions of the Act of June 25, 1999 on cash benefits from social insurance in the event of sickness and maternity, the carer's allowance is granted to persons subject to personal care by virtue of the Act or upon request (throughout the entire period of coverage for which the carer's allowance is paid) for accident, sickness, maternity or pension insurance, for a child due to the closure of a nursery, children's club, kindergarten, school or other facility attended by the child, or the inability to provide care by a nanny or day caregiver due to COVID-19. The carer's allowance is granted due to the necessity of personal care:

- a child under 8 years of age,
- a child with a certificate of a significant or moderate degree of disability up to the age of 18 or a child with a certificate of disability or a certificate of the need for special education.

The basis for granting the care allowance is an application submitted by the insured farmer/household member, in which, among others, they declare they are personally taking care of the child and indicate the periods of such care. In the case of caring for a child with a certificate of a significant or moderate degree of disability up to the age of 18, or a child with a certificate of disability or a certificate on the need for special education, in addition to the application, the applicant is obliged to attach a certificate of disability or a certificate of the need for special education. The care allowance is due from March 31, 2020, the date which the above-mentioned law came into force. The entitlement to the allowance should be determined within no more than 30 days from the date of clarifying the last circumstance necessary to issue the decision. There is a 6-month limitation period for claims for the payment of a care allowance from the last day of the period for which the allowance is granted. The right to a care allowance for the care of the child belongs to the mother and father (or legal guardian) equally. This allowance is paid only to one of the parents – the one who applies for it for a given period. Parents' allowance is granted to parents jointly, regardless of the number of children requiring care.

In the case of being subject to social insurance for farmers, upon application, a 12-month period of coverage is not required, as is the case with sickness benefit for incapacity to work on a farm, except for sickness benefit for an accident during

agricultural work. It is important that the person is insured for the entire period for which they are granted a care allowance.

The care allowance for a farmer is financed from the state budget and paid by KRUS. The amount of this allowance for each day is 1/30 of the amount of the basic pension within the meaning of Art. 6 point 7 of the Act of 20 December 1990, on the social insurance of farmers. The daily rate of the care allowance for farmers is PLN 32.41.

The care allowance is granted to a person running a non-agricultural business activity, who submits the relevant application and declares that they are personally taking care of the child, and meets all the required conditions. However, if the available information shows that the applicant conducting non-agricultural business activity is not providing personal care for the child, such that they are continuously performing work related to non-agricultural business activity every day (running a shop every day), they lose the right to a care allowance. According to Art. 35 sec. 2 of the Act on cash benefits from social insurance in the event of sickness and maternity, the provisions of, *inter alia*, art. 17, according to which the insured who performs gainful employment during the period of the declared incapacity for work or uses the leave in a manner inconsistent with the purpose of the leave, loses the right to sickness benefit for the entire period of the leave. In connection with the above, if the person entitled to the care allowance uses the period of receiving the allowance in a manner inconsistent with the purpose for which it was granted (i.e. will not resign from work/non-agricultural business activity, and thus will not personally care for the child), they will have to return the unduly received benefit.

The care allowance is also granted to a person who is insured with KRUS for agricultural activity and under the general system under a mandate contract. In this case, the farmer/household member must additionally submit a declaration that they have not submitted an application for a care allowance in ZUS.

The carer's allowance is also granted to a person who has been awarded a periodic pension and is insured with a pension fund.

The carer's allowance will not be granted if:

- apart from the insured person, there is another parent who can provide care for the child,
- apart from the insured person, there are other family members living in the same household who can provide care for the child,
- the other parent is on a maternity allowance,
- the insured is temporarily arrested or serving a sentence of imprisonment,
- the insured person or the other parent has been granted the right to this benefit from ZUS or another pension authority or by the employer,

- the insured person is temporarily unable to work; if the insured is temporarily incapable of work and therefore receives a sickness allowance, the carer's allowance is not granted, as the basic premise for not performing work is the inability to perform work due to the insured's illness,
- the insured person receives a nursing benefit, a special care allowance or a caregiver's allowance for the care of a disabled child; such a parent may take personal care of the child without the necessity to give up agricultural activity or work on a farm because such activity has already ceased in connection with the granting of the right to other benefits for taking personal care of a disabled family member.

If the spouse receives sickness benefit, the other spouse is entitled to the care allowance, because the sick person (receiving sickness benefit) cannot provide care.

No enforcement seizures and no deductions for outstanding contributions for farmers' social insurance are made from the care allowance for caring for a child. At the farmer's request, the system will make it possible to deduct the outstanding social security contributions.

The care allowance may be used for no longer than the day preceding the day on which the child turns 8 years of age. The age limit that has been set has inspired debate. The real problem exists for parents of older children. It is hard to imagine that children between the ages of 9 and 14 may be left unattended. It seems that the question of the rationality of the adopted solutions with regard to the age limit of children for whom parents will be able to care for and receive benefits in situations of risk of an epidemic remains open for discussion.

U07, COVID-19 sickness benefit

Pursuant to §1 of the Regulation of the Minister of Agriculture and Rural Development of March 19, 2020, amending the regulation on determining the amount of one-off compensation for an accident during agricultural work or agricultural occupational disease and sickness benefit in the period specified in art. 36 sec. 1 of the Act of March 2, 2020, on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and caused by other crisis situations, the insured person is entitled to a sickness benefit in the amount of PLN 15 for each day of temporary incapacity to work lasting continuously for no longer than 14 days if this incapacity is caused by an infection or a respiratory disease marked U07.1 COVID-19 on the medical certificate according to the International

Classification of Diseases and Health Problems. The Act of March 2, 2020, to the extent specified in Art. 36 sec. 1 is valid from March 8, 2020 to September 3, 2020.

Therefore, from March 8, 2020, sickness benefit for temporary incapacity to work caused by infection or disease marked in the medical certificate as U07 is granted to the insured in the amount of PLN 15 for each day of continuous incapacity to work, up to the 14th day of such incapacity. If the insured is still incapable of work, the sickness benefit for each subsequent day is paid in the amount of PLN 10, provided that the period of uninterrupted incapacity for work is at least 30 days.

Persons covered by accident, sickness and maternity insurance, upon request, are entitled to a sickness benefit for temporary incapacity to work marked as U07 after a 12-month uninterrupted benefit period.

Benefits for farmers – exemption from paying contributions to KRUS

Persons covered by retirement and disability insurance under the social insurance of farmers, in accordance with the Act of March 31, 2020, amending the Act on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, and certain other acts, have been entirely exempt from the obligation to pay KRUS contributions for the second quarter of 2020 (and therefore for three months: April, May, June). A farmer covered by KRUS retirement and disability pension insurance is exempt from the obligation to submit applications for remission of KRUS contributions. This relief was granted to each farmer automatically *ex officio*. Importantly, failure to pay contributions to KRUS for the period indicated above does not mean that there is no continuity of insurance because in this case the obligation to pay contributions for the insured is transferred to the state – contributions will be paid from the state budget through the Agricultural Social Insurance Fund. The proposed regulation provides government assistance to the agricultural environment in the circumstances of the COVID-19 pandemic in the country.

Extension of validity of judgments

Judgments for:

- partial incapacity for work,
- total incapacity for work,
- total inability to work and inability to live independently,
- inability to exist independently,

the validity of which expires during the period of the pandemic threat or pandemic state, or in the period of 30 days following their cancellation, remain valid for the next 3 months from the date of expiry of their validity, in the case of submitting an application for establishing entitlement to benefits for a further period before the expiry of these decisions.

On the above-mentioned principles, the validity period of which expired before March 8, 2020, shall also remain valid, if the application for establishing the entitlement to the benefit for a further period was submitted before the expiry date of the judgment and the new judgment was not issued before March 8, 2020.

The right to benefits dependent on the declaration of incapacity for work or incapacity for independent existence shall be extended until the end of the calendar month in which the extended period of validity of this decision will expire, without the need to issue a decision on this matter¹.

The extension of the validity period of the above-mentioned judgments took place due to the Act of March 31, 2020, amending the Act on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, and some other acts, called the Amending Act, which in the discussed scope, entered into force on March 8, 2020.

Sickness benefit for the quarantine period

The anti-crisis shield was extended to include new benefits for farmers, including sickness benefits for the quarantine period under the new rules. According to an earlier draft act, a farmer directed to quarantine at home could count on state support in the amount not exceeding PLN 15 for each day of being in forced isolation. From May 16, 2020, a person insured in KRUS may apply for a special sickness benefit due

1. <https://www.spes.org.pl/twoje-prawa/renta-z-tytulu-niezdolnosci-do-pracy-i-szkoleniowa/orzekanie-o-niezdolnosci-do-pracy>, access 10.05.2020.

to COVID-19 in a situation of compulsory quarantine, epidemiological supervision or hospitalization in connection with the coronavirus. During this time, they will be entitled to an allowance equal up to 50% of the minimum wage. In 2020, the minimum wage is PLN 2,600 gross, which means that in practice a farmer staying in quarantine can count on an allowance of PLN 1,300 gross. Thus, the Act of 16 April 2020, on special support instruments in connection with the spread of the SARS-CoV-2 virus equates the right of persons insured in the agricultural system with the right of persons insured under the general system.

According to Art. 46 point 45 of the Act of May 14, 2020, amending certain acts in the field of protective measures in connection with the spread of the SARS-CoV-2 virus, hereinafter referred to as the Amending Act, the quarantine allowance is granted to the insured farmer and the household member referred to in Art. 6 sec. 1 and 2 of the Act of 20 December 1990, on social insurance for farmers, hereinafter referred to as the insured farmer and the household member. This allowance may be granted to both the farm owner and the household members working with him, (cooperating person). A cooperating person is considered to be:

- a spouse,
- own children, children of the other spouse or adopted children,
- parents as well as stepmother and stepfather.

The quarantine allowance is granted for the period of compulsory quarantine, epidemiological supervision or hospitalization in connection with COVID-19 indicated in the decision of the State Poviats Sanitary Inspector or the State Border Sanitary Inspector or a medical certificate informing about hospitalization in connection with COVID-19, regardless of the length of this period, in the indivisible amount, i.e. PLN 1,300. Based on Article 59 of the Amending Act, the quarantine allowance is granted for the period falling no earlier than April 18, 2020. The allowance for compulsory quarantine, epidemiological supervision or hospitalization in connection with COVID-19 is granted upon application, after which the Fund issues a corresponding decision.

In the event of the convergence of the right to the quarantine benefit with the right to the sickness benefit referred to in Art. 14 of the Act of 20 December 1990, on social insurance for farmers or in art. 6 of the Act of June 25, 1999, on cash benefits from social insurance in the event of sickness and maternity, the beneficiary is paid one benefit – whichever is higher or the one selected by the beneficiary. However, if the right to quarantine allowance coincides with the right to a maternity allowance, the quarantine allowance is not granted.

The quarantine allowance is not subject to personal income tax (Article 52m point 3 of the Act of 26 July 1991 on personal income tax). The quarantine allowance

is not subject to any enforcement seizures and will not be deducted based on the farmers' outstanding social security contributions. At the farmer's request, the system will make it possible to deduct the outstanding social security contributions.

The entitlement to the quarantine allowance should be determined no later than 30 days from the date on which the last circumstance necessary to issue the decision is clarified. The claim for payment of the quarantine allowance expires 6 months after the last day of the period for which the allowance is due. After that time, the entitlement to the benefit expires. If the failure to submit a claim for payment of the quarantine allowance was due to reasons beyond the control of the entitled person, the limitation period is counted from the date on which the obstacle preventing the submission of the claim ceased to exist.

Summary

In connection with the spreading coronavirus pandemic, the Minister of Agriculture and Rural Development has offered various types of reliefs and benefits for farmers insured by KRUS. Farmers, like entrepreneurs, suffer losses due to difficulties in selling their raw materials or as a result of falling prices. Entire industries, such as floriculture or nursery, face problems, which is why agricultural producers were also granted support. Exemption from KRUS contributions, as in the case of ZUS, was the first aid that farmers obtained. Then, as part of the anti-crisis shield, they were granted a care allowance for children, increased sickness allowance in the case of coronavirus infection, and for quarantine, epidemiological supervision and hospitalization in connection with COVID-19. The validity of the judgments issued by KRUS has also been extended. The catalog of people who can take advantage of the benefits described above is large, as it concerns not only insured farmers/household members, but also people receiving old-age and disability pensions. The amounts paid out are quite high and it is relatively easy to qualify for benefits. In most cases, it is enough to submit an application without the need to submit additional documents. Many farmers have already benefited from this form of aid. The Ministry of Agriculture and Rural Development emphasizes that the presented solutions for mitigating the effects of the COVID-19 pandemic may have yet another form, therefore it is waiting for proposals from interested entities, especially from farmers themselves. These proposals can count on the support of the Minister of Agriculture and Rural Development, who at the same time is attempting to obtain additional funds from the EU to support agriculture currently affected by a decline in revenue. It also expects unused money from the Rural Development Program to be shifted to

farm income support. In times of crisis, food is especially needed and will always be in demand, but severing supply chains and problems with exports and processing have an impact on individual farms. It is therefore logical for the state to support farmers, and the range of this type of aid is very rich. The support system guaranteed by the government should be assessed as a comprehensive and positive solution.

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received: 25.05.2020
accepted: 14.09.2020

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