



GUIDING QUESTIONS FOR THE THIRTEENTH SESSION.  
FOCUS AREA 1: RIGHTS TO HEALTH AND ACCESS TO HEALTH SERVICES

**NATIONAL LEGAL AND POLITICAL FRAMEWORK**

- 1. What are the legal provisions and regulatory frameworks in your country that guarantee the right of older persons to enjoy the highest attainable level of physical and mental health, including access to health promotion, prevention, cure, health facilities and goods? rehabilitation, palliative and services?**

**ANSWER.** Colombia has developed an extensive legislative production to guarantee effective access to health for the elderly, based on the constitutional precepts that consider health as an autonomous fundamental right and, at the same time, as a mandatory essential public service. This nature attributes a double connotation to it: it is the State that oversees it under its non-delegable direction, supervision, organization, regulation, coordination, and control and, on the other hand, its inalienable character is predicated of it individually and in collective for all the inhabitants of the national territory. This is derived from article 49 of the Political Constitution and, in its development, from Statutory Law 1751 of 2015, providing for the creation of the General System of Social Security in Health [hereinafter SGSSS] to ensure the promotion of health, prevention and care of the disease and rehabilitation of its sequelae, through "collective and individual" actions, based on the principles of progressivity, quality, solidarity, without discrimination, in conditions of equality and universality, precepts instituted since Law 100 of 1993 and preserved in the regulations that have reformed the SGSSS.

The public policies on aging and old age deserve special mention in their three versions for the periods: 2008-2013, 2015-2024 and the recently sanctioned National Public Policy on Aging and Old Age 2022-2031 issued under Decree 681 of 2022.

- 2. What steps have been taken to ensure that all older person have access to good quality, affordable health care and services in old age without discrimination?**

**ANSWER.** The guarantee for the effective provision of comprehensive health care is based on a mandatory and supportive insurance system, instituted by Law 100 of 1993 with the aim of universalizing<sup>1</sup>health coverage. It is defined in article 14 of Law 1122 of 2007 as: "financial risk management, health risk management, articulation of services that guarantee effective access, quality assurance in the provision of services of health and the representation of the member before the provider and the other actors without prejudice to the autonomy of the user". The insurance administration supposes the recognition of the coverage established in two mechanisms that today coexist articulately in the SGSSS to materialize it: i) collective protection insurance mechanism called the Health Benefits Plan charged to the Capitation Payment Unit - PBSUPC, which is currently governed by Resolution 2808 of 2022 through which the health services and technologies financed with UPC resources were fully updated.<sup>2</sup>and ii) individual protection mechanism of health technologies not financed with UPC resources (from the subsidized regime) and complementary services, whose costs are recovered from the Administrator of the Resources of the General System of Social Security in Health, ADRES resolutions 1885 and 2438 of 2018 determine the provision of these services and technologies.

- 3. What data and research are available on older people's right to health and access to health care and services? Please indicate how national or subnational data is disaggregated by sex, age and equality dimensions and what indicators are used to monitor the full realization of the right to health of older persons?**

**ANSWER.** The main source is the National Survey of Health, Well-being and Aging (SABE), which applies the Ministry of Health and Social Protection every ten years and is representative at the national and subnational level. Topics covered by the survey include demographics, social networks and social support, physical health, behavioral risk, cognitive function, mental health, health care, violence, social isolation and loneliness, employment, social activities and participation, housing and assets, transportation /travel, and biomarkers.

- 4. What measures have been taken to provide adequate training to legislators, policy makers, health and care personnel on the right to health of older persons?**

**ANSWER.** From the central level, the Nation is assisted by the responsibility of drawing up the major health guidelines that, hierarchically, govern the operation of the General System of Social Security in Health -SGSSS- in the territorial entities, a function that falls on the Ministry of Health and Social Protection as head of the sector. In accordance with its responsibilities, it must provide technical assistance to strengthen the capacities of the agents and actors of the SGSSS in the territorial scope, to the agents of the public sector of mayors' offices



and departmental governments, particularly, of the secretariats of health, social inclusion, family or social that oversee adopting and developing public policy on aging and old age. From the MSPS, technical assistance is understood as "a process aimed at developing capacities in people, organizations and the community, in order to contribute to the achievement of territorial management and to achieve the expected health results in the territorial scope – departments, districts and municipalities – through advice, cooperation, technical support and training, in joint work with the actors involved. Part of the identification of their own needs and opportunities and respect for the process of agreement and sustainable transformations".

#### **PROGRESSIVE REALIZATION AND USE OF THE MAXIMUM OF AVAILABLE RESOURCES**

---

5. **What steps have been taken to align macroeconomic policies and measures with international law and human rights, to use the maximum available resources for the realization of the right to health of older people? For example, through the expansion of fiscal space, the adoption of specific measures and international cooperation.**

**ANSWER.** Non available information

#### **EQUALITY AND NON-DISCRIMINATION**

---

6. **What are the challenges older people face in enjoying the right to health, including the impact of intersectional discrimination and inequality based on age, gender, disability and other grounds?**

**ANSWER.** The attention to the social determinants of aging and old age were comprehensively collected in the update of the National Public Policy on Aging and Old Age (PPNEV) 2022 - 2031. However, its development includes addressing various challenges to materialize a better quality of life and health care for the elderly including:

- Ensure an effective process of follow-up and monitoring of the actions proposed in PPNEV, from the definition and strengthening of the two instruments destined to favor said processes: i) the formulation of the Intersectoral Action Plan and ii) the consolidation of the National Observatory on Aging and Old age.
- Strengthen health care processes by improving the accessibility and quality of services, with the required comprehensiveness and opportunity.
- Renew the commitment to primary health care (PHC) and the strengthening of the first level of care to: maintain continuous action for the prevention and promotion of age-associated comorbidities, monitor and control people with communicable diseases and mental health, and, in general, to operate epidemiological fences and decongest hospitals and intensive care units.
- Promote the use of telemedicine, in response to the levels of functional dependence of the elderly and the barriers to the provision of health services in rural and dispersed areas and, on the other hand, optimize service networks, which, in terms of the World Health Organization, it involves establishing, organizing and coordinating the continuum of progressively complex services in a comprehensive and specialized manner.
- speed up the organization of the institutionalist and the national care system and of the socio-sanitary care services and regulate the different modalities, registration and follow-up; as well as complementary elements of the social protection system, measures of self-care, protection and individual and collective development for caregivers and subjects under care.
- Promote healthy aging from childhood and throughout life, with a multidimensional vision that involves strategies to improve physical, cognitive, and social functionality, productive participation, self-government, affective life, and sexual rights, among other factors.

7. **What measures have been taken to eliminate age and age discrimination, including policies, practical laws, social norms and discriminatory stereotypes that perpetuate health inequalities among older people and prevent them from enjoying their right to health? ?**

**ANSWER.** The current regulatory framework that protects the right to health for the elderly includes the transversal principles of the Political Constitution that recognize the intersectionality and pluralism of the population, dignity, non-discrimination, ethnic and cultural diversity, and differential care for " subjects of special protection" in a condition of manifest weakness, due to the afflictions of age – in the case of the elderly (Article 46 CP)–, the presence of catastrophic, chronic and degenerative diseases, terminal states and processes of end of life and death, people suffering from orphan diseases and those in a condition of disability (article 13 CP), displaced persons, victims of violence and armed conflict<sup>3</sup>and, in general, those who find themselves in special circumstances of defenselessness and vulnerability. In recognition



of the differences and vulnerabilities, the Statutory Health Law (Law 1751 of 2015) established that these population groups will enjoy special protection by the State. Your health care will not be limited by any type of administrative or economic restriction. Institutions that are part of the health sector must define intersectoral and interdisciplinary care processes that guarantee the best care conditions. Likewise, there have been legislative developments around the ethno-cultural adaptability, accessibility to the physical environment, information, goods and health services and the development of universal design, the provision or recognition of support for decision-making and reasonable accommodation and safeguards for people with reduced mobility or disability, such as measures aimed at breaking down attitudinal, physical and communicational barriers in the treatment, provision of information and health care by the personnel of the Health Promoting Entities and other entities authorized to operate health insurance in the contributory and subsidized regimes within the SGSSS, at any stage or moment of the health care process.

**8. What measures have been taken to ensure that older people can exercise their legal capacity on an equal basis with others, including making their informed consent, decisions and choices about their treatment and care?**

**ANSWER.** The framework of the "United Nations Convention on the Rights of Persons with Disabilities" -incorporated into the constitutional block through Law 1346 of 2009–,It regulates the full legal capacity of people with disabilities of legal age, through Law 1996 of 2019. Full legal capacity – of enjoyment and exercise – is understood as the right that all persons have, regardless of their condition of disability or the use of supports, reasonable accommodations, or safeguards, to exercise directly and autonomously and freely, the rights of which they are owners, incur obligations and carry out lawful legal acts, with effects for themselves or for others, without the will of a third party. The norm eliminates from the Colombian legal system the "condition of disability" as a factor to declare the "incapacity" of a person to perform legal acts, by suppressing the categories of "absolute legal incapacity" and "relative legal incapacity" for presenting some mental disability. or cognitive and, at the same time, prohibits the regime of "judicial interdiction" that established the Civil Code and Law 1306 of 2009, which marks a legal milestone towards non-discrimination and the full satisfaction of the rights of people with disabilities.

## RESPONSIBILITY

---

**9. What judicial and non-judicial mechanisms exist for older persons to file complaints and seek redress for the denial of their right to health?**

**ANSWER.** Non available information

**10. What mechanisms exist to ensure the effective and meaningful participation of older people who live in different geographic areas of the country, in the planning, design, implementation, and evaluation of laws, policies, programs, and health services that affect them?**

Faced with the right to participation of older people in public policy decisions that affect them and their organization, relationship and integration as individuals and as a group in scenarios that require their representation, the National Council for Older People was created. (CNPM), Through the Decree 163 of 2021–and development of Laws 1251 of 2008<sup>4</sup>and 1955 of 2019–This body acts as a permanent national advisory body of the MSPS, in its role as coordinator of public policy on aging and old age. This Council is attributed, among other responsibilities is, those of promoting the work of inter-institutional coordination, forming sectoral liaison groups with the Ministries of Health and Social Protection, Education, Transportation, Commerce, Industry and Tourism, Information and Communication Technologies, Finance and Public Credit, to promote the creation , continuity and access to comprehensive care programs and services, advise on the formulation of national policies and plans on aging, learn about the annual evaluations of programs, projects and services carried out by public or private institutions and determine technical criteria to distribute public financial resources for programs and services for the elderly. During the year 2021, after the issuance of Decree 163, Men and women counselors of the State entities were appointed: Ministry of Education, Ministry of Labor, National Planning Department, Colombian Institute of Family Welfare (ICBF) and the Ombudsman's Office.