

International students from countries without a social security agreement with Germany who take exclusively virtual degree programmes – assessment pursuant to German social insurance law

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1. International students and KVdS [Student Health Insurance]

Students who are enrolled at state or state-accredited universities or higher education institutions are required to have health insurance under the German statutory health insurance system, regardless of whether their place of residence or habitual abode is in Germany (Section 5 (1) no. 9 SGB V [German Social Code book 5]). The special regulations of the Krankenversicherung der Studenten (KVdS) apply to them. In principle, there are two possible exceptions to this requirement:

- if the student has statutory health insurance for another overriding reason (e.g., non-contributory dependants' insurance) or is exempt or released from the requirement to have compulsory health insurance;
- if the student's place of residence is in a country with which Germany has a supranational or intergovernmental social security agreement and, pursuant to this agreement, the student is entitled to health insurance cover for illness and pregnancy.

In general, students who come from a country that does not have a social security agreement with Germany and who enrol at a state or state-accredited university or higher education institution are therefore also subject to compulsory insurance. These students may be exempt from the requirement to have insurance if they provide proof of another form of health insurance that covers illness (Section 8 (1) no. 5 (2) SGB V).

The requirement to have insurance only applies to regular degree programmes. International students who are exclusively taking preparatory courses (preparatory classes, propaedeutics) or a preparatory language course are not subject to compulsory insurance within the KVdS.

2. On-campus programme and distance learning

In contrast to classes held on campus at a university or higher education institution, distance learning generally takes the form of guided self-study. Distance learning courses are characterised by the media used to teach, essentially the Internet.

Attendance times are reduced to the necessary minimum and used for examinations and individual classes. Distance learning at a university or higher education institution also requires students to be insured in the KVdS under the other conditions.

However, students enrolled at distance learning universities in Germany whose place of residence or habitual abode is not within the scope of the Sozialgesetzbuch [German Social Code] are not subject to compulsory insurance (basic information provided by the GKV-Spitzenverband [National Association of Statutory Health Insurance Funds] – "Kranken- und Pflegeversicherung der Studenten, Praktikanten und Auszubildenden ohne Arbeitsentgelt sowie Auszubildenden des Zweiten Bildungswegs" [Health insurance and long-term care insurance for students, unpaid interns and trainees, as well as trainees in second chance education] dated 20 March 2020, Tit. 1.1.1).

3. Virtual degree programmes due to Coronavirus pandemic restrictions

Since the 2020 summer semester, many universities have been limiting on-campus classes to an absolute minimum and, in particular, are offering virtual classes (online) instead. If only virtual degree courses are offered (e.g., with students attending online lectures or using other digital options), they are more comparable to distance learning courses than on-campus ones (Circular RS 2020/931 published by the GKV-Spitzenverband dated 20 May 2020).

If pandemic-related reasons (e.g., an entry ban), students are unable to reside in Germany and are exclusively attending virtual classes, they are not subject to compulsory insurance within the KVdS system. This applies to students from countries that do not have a social security agreement with Germany who are enrolled at a German university or higher education institution.

However, the regulations of the KVdS state that insurance cover is compulsory should universities or higher education institutions grant students the opportunity to attend in-person classes virtually. That regulations applies if this is the sole reason (i.e., not on pandemic-related grounds) for students either not entering Germany or entering at a later date. Degree programmes at German universities which are taught either in-person, digitally or as a combination of both are not comparable with the degree programmes offered by distance learning universities.

4. Compulsory insurance cover upon entering Germany

International students from countries that do not have a social security agreement with Germany become subject to compulsory insurance within the KVdS system

Requirement: They are exclusively attending virtual degree programmes and enter Germany during the semester and start their degree programme by attending classes.

However, the requirement to have health insurance does not take effect from the date of entry into Germany, but rather (Section 186 (7) sentence 1 SGB V)

- from the start of the semester,
- but no earlier than the date of enrolment.

Example 1

Student from Ghana, enrolled at the University of Hamburg on 16 March 2021. Start/end of the summer semester: 1 April 2021 – 30 September 2021. Resided in Ghana until 24 May 2021, entered Germany on 25 May 2021.

Assessment:

The requirement to have insurance in the KVdS system begins retroactively as of 1 April 2021.

Example 2

Student from Russia, enrolled at FH Münster – University of Applied Sciences – on 16 March 2021. Start/end of the summer semester: 1 March 2021 – 31 August 2021. Entered Germany on 25 July 2021.

Assessment:

The requirement to have insurance in the KVdS system begins retroactively as of 16 March 2021.

Students who become subject to compulsory insurance upon enrolment can apply for exemption from the requirement to have health insurance. Requirement: They have to provide proof of another health insurance that covers illness. However, an application for exemption must

be submitted within three months after the requirement for compulsory health insurance takes effect. The application period of three months is a cut-off period. If this deadline is not met, the student cannot apply for exemption for the entire duration of the degree programme. If the semester begins on 1 March, the application must therefore be submitted by 31 May; if it begins on

1 April, the application must be submitted by 30 June (if the insurance starts on the date of enrolment after the semester begins, this date may be later). These cut-off periods and deadlines also apply if the obligation to have health insurance starts retroactively if an international student enters Germany later from a country that does not have a social security agreement with Germany.

5. Obligation to pay contributions

Students subject to compulsory insurance pay their health insurance and long-term care insurance contributions starting on the date their membership becomes effective, generally for the entire semester (Section 254 (1) SGB V). Nowadays, contributions are often paid monthly by direct debit. If the student's membership begins during the semester, with retroactive effect from the start of the semester, the student has to pay the contribution for the entire semester.

If membership of a health insurance fund is inadvertently established by a student from a country that does not have a social security agreement with Germany, the membership will be cancelled. Requirement: the student is exclusively attending a virtual degree programme and, for pandemic-related reasons, is unable to reside in Germany (e.g., entry ban). Any contributions paid in error will be refunded to the student.

6. German Registration Law

Prospective students from countries that do not have a social security agreement with Germany must provide confirmation of their insurance status in accordance with the German legal provisions (Section 199a (2) SGB V). This equally applies to the university's enrolment regulations and is a requirement to enrol. This applies to prospective students who intend to take an exclusively virtual degree programme and who are unable to reside in Germany for pandemic-related reasons (e.g., an entry ban).

If the student was not previously a member of a health insurance fund, the confirmation can be obtained from any health insurance fund the student could have chosen if he/she had been subject to compulsory insurance, e.g. TK. The health insurance fund then issues a certificate of insurance or reports the insurance status to the respective university or higher education institution if it already participates in the automatic reporting procedure.

In order to assess the insurance status in such cases, we need an informal declaration by the student affirming that he/she is not residing/could not reside in Germany (e.g., residence in his/her home country) for the duration of the semester (e.g., due to an entry ban). In the declaration the student must also affirm that the degree programme is being/was taught entirely online.

This declaration, including the pertinent personal information, is to be sent to the following e-mail address **versicherung@tk.de**. To make processing as transparent as possible, we require an e-mail from each student.

Based on this proof, we can issue a certificate of insurance or a report on the insurance status stating that the student is not covered by statutory insurance. The information contained in the certificate or report remains valid until a new certificate or report confirms that the student's insurance status has changed.

Procedure upon entry

International students from countries that do not have a social security agreement with Germany who enter Germany to continue their degree programme by attending classes must inform the respective university or higher education institution about the change of address. This requirement arises from the obligation to cooperate pursuant to German higher education law.

In these cases, the university or higher education institution must inform the student that his/her insurance status may change, and that the student should immediately contact an eligible health insurance fund, e.g. TK.

After a consultation with the student, the health insurance fund will issue a new certificate of insurance or a new report to the university/higher education institution if the insurance status has changed.

7. Questions and answers

QUESTION: Does the regulation explained here only apply to first-year students or also to students in advanced semesters?

ANSWER: The regulation applies to all students. If the student was previously subject to compulsory insurance in the KVdS system, that requirement ends at the end of the semester preceding the semester when the aforementioned conditions were in effect. The relevant conditions mentioned are: residence in a country without a social security agreement with Germany, exclusive attendance of virtual classes.

QUESTION: For enrolment purposes, our university/higher education institution has received a report on the insurance status of a student from a country without a social security agreement with Germany. The report states that the student is exclusively attending a virtual degree programme during the summer semester and, for pandemic-related reasons (e.g., an entry ban), is unable to reside in Germany. The report also states that the student has statutory health insurance cover. Based on the amended legal opinion (Circular RS 2020/931 by the GKV-Spitzenverband dated 20 May 2020), this status is not correct; the student is not subject to compulsory insurance. How should we proceed?

ANSWER: In order to assess the insurance status in such cases we need an informal declaration by the student affirming that he/she is not residing/could not reside in

Germany (e.g., residence in his/her home country) for the duration of the semester (e.g., due to an entry ban). In the declaration the student must also affirm that the degree programme is being/was taught entirely online.

This declaration, including the pertinent personal information, is to be sent to the following e-mail address **versicherung@tk.de**. To make processing as transparent as possible, we require an e-mail from each student.

QUESTION: How can international students affected by this regulation prove that they have adequate health insurance cover?

ANSWER: If the individuals are not residing in Germany, proof of health insurance cover is not required.