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Pandemic, Health Insurance, and Legal Implications: A Comprehensive Analysis of Insurance Law in India

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ABSTRACT

In the context of the Indian healthcare system, and especially in the wake of the COVID-19 epidemic, the paper "Pandemic, Health Insurance, and Legal Implications: A Comprehensive Analysis of Insurance Law in India" explores the complex terrain of health insurance. It looks at the fundamentals of health insurance, the different kinds of it, and how private insurance companies are changing in India.

In order to shed light on the various ways to healthcare funding in India, the article discusses the important government health schemes, community-based efforts, employer-provided health insurance, and privately owned health insurance plans. There is also discussion of the changing role of private insurance carriers as well as the potential and problems they present.

The report reveals the significant regulatory adjustments made by the Insurance Regulatory and Development Authority of India (IRDAI) in reaction to the epidemic. Standard health insurance plans, COVID-19 treatment being protected by health insurance, and the availability of telemedicine services are some of these changes.

The study also highlights how important it is for health insurance to serve the poor and vulnerable segments of society in order to guarantee affordable, high-quality healthcare access. Insights into the healthcare sector's bright future are provided by addressing the larger trends in India's healthcare system, which are defined by economic liberalisation and rising health consciousness.

This study offers a thorough analysis of health insurance in India, its ability to withstand the COVID-19 pandemic, and the legislative adjustments that are transforming the sector. It emphasises how vital a strong health insurance system is, as a cornerstone of India's developing healthcare system.

Keywords: Health Insurance, COVID-19, Fundamentals of Health Insurance, Pandemic, Private Insurance Company, Government Health Schemes.

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I. INTRODUCTION

Article 21 of the Indian Constitution recognizes health as a fundamental right, so access to and affordability of health care must be ensured. India's healthcare system is radically changing as a result of economic liberalization, the emergence of private healthcare financing, and the country's growing health consciousness.²

When it comes to the creation, evaluation, and application of health sector policies, health insurance is more complicated than other insurance segments. This is because changes in technology and epidemiology have made these tasks more difficult. It is essential to comprehend Indian health conditions thoroughly and apply insurance concepts while keeping in mind national aspirations and sociological realities. The cost of medical care is becoming unaffordable for the average person.

In light of rising healthcare costs, increased demand for healthcare services, and a lack of quality healthcare access for the general public, health insurance has emerged as an effective method of funding health-care services. Under a health insurance policy, an insurance company agrees to guarantee payment of medical expenses in the event that the insured gets sick or has an accident that necessitates hospitalization.

For the purpose of providing cashless treatment to their insured, insurance companies typically have partnerships with hospitals. Nevertheless, the insurance company pays the insured's expenses if there are no agreements with the hospital.³ By offering benefits related to income taxes, the government additionally promotes health insurance.

Since the COVID-19 pandemic has impacted the health insurance industry the most, over the last two years, numerous reforms have been implemented to protect the largest number of people in India.

II. HEALTH INSURANCE CONCEPT IN INDIA

The IRDAI (Health Insurance) Regulations 2016 provide the governing framework for health insurance. "Health insurance business is defined by Section 2(6C) of the Insurance Act, 1938 as policies that provide benefits such as hospital benefits, travel insurance, personal accident cover, in-patient and outpatient surgery benefits, and sickness benefits."

² CORONAVIRUS HEALTH INSURANCE: COVID-19 INSURANCE POLICY IN INDIA DIGIT INSURANCE, <https://www.godigit.com/content/godigit/directportal/en/homepage.html> (last visited Nov 01, 2023)

³ COVID-19 (CORONAVIRUS) INSURANCE: BUY CORONA INSURANCE IN INDIA COVERFOX INSURANCE, <https://www.coverfox.com/health-insurance/coronavirus-health-insurance/> (last visited Nov 01, 2023)

Individuals who are 65 years of age or younger and are buying health insurance for the first time are covered by the health insurance plan.⁴ "Cashless Claim Process and Reimbursement Claim Process" are the two options available to an individual when filing a health insurance claim.

III. TYPES OF HEALTH INSURANCE

Health insurance comes in a variety of forms, covering things like hospital stays, PED coverage, pregnancy, and critical illnesses, among many more. If the customer was uncooperative or engaged in fraud or deception during the previous policy term, the insurer may refuse to recommend the continuation of the health insurance plan.

1. Medical insurance policies that offer indemnity benefits are classified as certain types.

- a. Indemnity agreements, which only provides coverage based on the actual costs incurred
- b. Policies with fixed benefits for medical treatment provide predetermined sums for specific medical treatments or conditions.

Fundamental insurance contract principles state that life insurance is not an indemnity contract, but general insurance is. Consequently, insurance companies as well as independent health insurance providers may offer indemnity-based health insurance policies.⁵ Life insurance companies may offer fixed health insurance, which pays a predetermined amount upon hospitalization without accounting for the policyholder's actual out-of-pocket expenses. Life insurance companies, for example, offer critical illness coverage, which falls into this category. These are predetermined amounts provided by life insurance companies in the event that the life insured suffers from any of the illnesses covered by the insurance policy contract. Personal accident or travel insurance coverage is not provided by life insurance companies.⁶ Accident death benefit, on the other hand, can be offered as a rider by life insurance companies, which means that the amount assured is paid to the nominee if the person dies.

2. Term of Health Insurance Protection

Once authorized by IRDAI, no changes to a health insurance policy will be considered until the

⁴ *ibid.*

⁵ HOW COVID-19 HAS IMPACTED HEALTH INSURANCE IN INDIA, <https://www.plumhq.com/blog/covid19-impacts-health-insurance-india> (last visited Nov 01, 2023)

⁶ *Supra* Note 3.

original one year or three-year period expires.⁷ After the revision, additional changes can only be taken into account a year later. Companies that offer general and health insurance offer one-year health insurance policies that can be renewed at the end of the year. These companies' health insurance plan premiums are only modifiable at the end of the year based on past claims experience. In accordance with the Group insurance contract of policy, premiums for "Group Health insurance plans" may be changed at the end of the policy's term. "Group health insurance plans" are typically available for a year.

3. **Health Insurance Portability**

"The ability granted to the policyholder to move the credit obtained for pre-existing conditions and time-bound exclusions from one insurer to another, or from one plan to another of the same insurer," is known as portability. A life insurer's fixed benefits are not transferable to other health insurance plans.

The ability to maintain the credits earned from maintaining a policy with the previous insurer is a benefit of portability. The insurance provider may reject a claim for portability if the policyholder gets in touch with them 45 days or less before the policy expires.⁸ Notwithstanding the foregoing time frame, an insurer may, at their discretion, consider a request for renewal.

The portability form must be received by the new insurer within 15 days in order for it to be approved or denied. Portability requests are assumed to be approved if the new insurer does not respond within the allotted 15 days.

4. **Reinsurance**

Insurer insurance or stop-loss insurance are common terms used to describe reinsurance. Reinsurance is the process by which insurers transfer a portion of their risk portfolios to other parties via contractual agreements in an effort to lessen the possibility of being required to foot the bill for a sizable portion of an insurance claim.

The party who diversifies their insurance portfolio is the one who is ceding. The individual who accepts some potential liability in exchange for a portion of the insurance premium is known as a reinsurer.⁹ By shielding the "insurer's equity and solvency" from cumulative individual obligations, reinsurance increases the insurer's capacity to bear the financial burden in the event

⁷ HEALTH DEPT IRDAI, <https://irdai.gov.in> (last visited Nov 01, 2023)

⁸ HOW HAS THE COVID-19 PANDEMIC TRANSFORMED THE HEALTH INSURANCE INDUSTRY IN INDIA? - ET BFSI ETBFSI.COM, <https://bfsi.economicstimes.indiatimes.com/blog/how-has-the-covid-19-pandemic-transformed-the-health-insurance-industry-in-india/89503038> (last visited Nov 01, 2023)

⁹ Supra note 7

of major and unanticipated disasters.

IV. HEALTH INSURANCE SCHEMES IN INDIA

1. Government Health schemes

a) **Employees State Insurance Scheme (ESI):** The purpose of this social security program is to offer "socio-economic protection" to employed individuals and their families in the organized sector in the event of illness, pregnancy, or other health-related harm. This program, which is run by the "Employees State Insurance Cooperation," provides medical care to workers who are registered under the "ESI Act of 1948."¹⁰ Additionally, it provides financial assistance to make up for the money lost from his or her salary while they were ill, pregnant, or hurt at work.

b) **Central Government Employees and Pensioners Health Insurance Scheme:** This scheme was introduced in 1954 and covers both newly hired and retired central government employees. This plan covers maternity benefits, hospitalization before and after birth, and pre-existing conditions. Medical care, home visits, free medications, and diagnostic services are likely among the benefits provided by the scheme. This scheme provides coverage for the insured's entire life until death.

c) **Aayushman Bharath Health Scheme:** PM Modi launched this scheme in September of 2018 as a "game-changer initiative to serve the poor" and is also known as "Modicare," which provides healthcare to the poor/deprived. This is the largest government healthcare scheme in the world. Every year, it provides a 5 lakh cover. 1354 illnesses are included in this list. Patients would pay 15–25% less for heart bypass surgery, knee replacements, and other treatments than they would under other Central Government health plans. Both government and private hospitals on the list are eligible to receive benefits under the program.

2. Community Based /NGO Provided Health Insurance Schemes

Communities that are impoverished or deprived are typically the target of community-based programs. Usually, non-governmental organizations or charity trusts are in charge of managing these kinds of programs. Participants in this program pay in advance for particular services on an annual basis. Because the premium is fixed and not income-based, it is not progressive. The majority of the benefits are in the form of preventive care, though inpatient and ambulatory care are also covered. These programs are frequently financed by grants from the government,

¹⁰ IMPORTANCE OF HEALTH INSURANCE POLICY DURING COVID-19 PANDEMIC HINDUSTAN TIMES, <https://www.hindustantimes.com/brand-post/importance-of-health-insurance-policy-during-covid-19-pandemic-101643112707076.html> (last visited Nov 01, 2023)

donations, and patient contributions. The management and design of these schemes is bad. Adverse selection is often a problem because premiums are not determined by assessing each person's risk status. The poorest of the poor are not included in these schemes. They have few members and are heavily dependent on donations. The Mullur Milk Co-operative, the Self-Employed Women's Association (SEWA), and other well-known programs are examples of community-based health insurance plans.

3. Health Insurance Schemes Provided by Employers

Employers who participate in this program offer health insurance to their staff members by purchasing a Group Medclaim Policy from the insurance provider. Payment for the premiums can come from the employer, the employees, or from both the employer and the employees in part.¹¹ Depending on the benefits received by the employee, this would be decided by the HR policy of the business.

4. Private Run Health Insurance Schemes

A number of privately managed health insurance programs are also overseen by General/Stand-Alone health insurance companies under IRDAI regulation. Life insurance companies also offer coverage for critical illnesses. A health insurance policy from one of the aforementioned insurance companies can be purchased by anyone.

V. EXAMINATION OF PRIVATE HEALTH INSURANCE PROVIDERS

The goal of the insurance industry's privatization is to improve the performance of the nation's state insurance sector by leveraging the advantages of competition, which include lower costs and higher customer satisfaction.¹² Unfortunately, it is unclear what effects private insurance companies will have when they enter the healthcare market. There are a lot of difficult issues with this sector's development that need careful consideration.

Depending on the institutional, social, and economic circumstances of a nation or region, private insurance plays a different role. The argument made by opponents of private insurance is that it will lead to "cream skimming and adverse selection" by taking scarce resources out of the pool and raising healthcare costs.

This viewpoint holds that the social aspect of health care is typically overlooked when health insurance is privatized. On the other hand, proponents of private health insurance contend that

¹¹ *ibid.*

¹² RESPONDING TO THE COVID-19 AND PANDEMIC PROTECTION GAP IN INSURANCE OECD, <https://www.oecd.org/coronavirus/policy-responses/responding-to-the-covid-19-and-pandemic-protection-gap-in-insurance-35e74736/> (last visited Nov 02, 2023)

it can lessen disparities in income by offering clients value for their money and helping them avoid the typical problems associated with receiving free public healthcare, such as long wait times, subpar treatment, etc.¹³

Both arguments are true in the sense that, if properly managed and customized to meet regional needs and preferences, health insurance privatization could be a useful tool to enhance or complement pertinent health financing options. Since healthcare services involve elements of public goods, effective regulation and oversight of health, insurance providers and insurers are essential to the success of health insurance privatization and the fulfillment of its obligations.

This is especially crucial in India, where the privatization of health insurance is starting to play a larger role in paying for healthcare. India presents the perfect setting for the growth of private health insurance because it has a substantial middle class and a moderately developed economy. Although it still has a small role in the health care sector, health insurance is becoming more and more popular.

It is not the only solution to India's grave health care problems. Unfortunately, policymakers in the nation are taking it into consideration and it is a worthy alternative. The question therefore becomes not if this instrument will be used in the near future but rather if it will be used to the fullest extent possible to meet the needs of the Indian healthcare sector.

VI. IRDAI REGULATION'S PRINCIPAL MODIFICATIONS IN RELATION TO COVID-19

Any industry, including the insurance sector, is subject to changes and regulations that affect its ability to grow. The Indian insurance sector is overseen by the Insurance Regulatory and Development Authority of India, which implements numerous changes and improvements to make insurance products much more focused on the needs of the customer.

Customers are able to maximize the benefits of their insurance products as a result, and they start to place much greater trust in insurance for their financial security. Since this industry was the most severely affected this year due to the Covid-19, it underwent a great deal of reforms in 2020 in an effort to protect as many Indians as possible.¹⁴ The modifications were implemented to enable the covered individuals to maintain appropriate protection and better manage their health.

¹³ Supra note 8

¹⁴ Supra note 12

VII. SIGNIFICANT CHANGES THAT THE HEALTH INSURANCE SECTOR UNDERWENT IN 2020

1. Introducing Standard Health Insurance Plan: Arogya Sanjeevani

The "IRDAI" directed all insurers to start selling standard health insurance products, or Arogya Sanjeevani, on April 1st, 2020, in its guidelines released on January 2nd, 2020, as part of its tremendous effort to make quality healthcare accessible to everyone. This was introduced with the justification that the current plans are too complex for the average person to understand. The introduction of a standard health insurance plan has contributed to the simplification of the purchasing process and has played a major role in fostering consumer confidence in this sector.

2. Changes in the Health Insurance Sector as a Result of the Covid-19 pandemic

IRDAI has been working nonstop to address the crises by taking a variety of measures to give customers the most comfort possible since the Covid-19 pandemic began in India in March 2020.

After the pandemic, the first and most important change in the insurance industry was the addition of Covid-19 treatment to health insurance coverage. "Health or life insurance policies" usually do not cover pandemics. Given that the cost of treating COVID-19 ranges from Rs 2 to Rs 4 lakhs for a 14-day hospital stay, this was a positive development. Since health insurance covered the pandemic, people could receive effective treatment without worrying about going bankrupt.

Furthermore, some changes were made to the underwriting guidelines for customer health insurance plans.¹⁵ When a necessary physical examination could not be conducted due to the nationwide lockdown, the regulator directed all insurers to provide "health insurance policies" to consumers through "telemedicine" whenever possible. The regulator even approved the "use of e-KYC" for consumer policy issuance or policy commencement. Consumers could provide their approval through "video KYC or OTP in lieu of physical signatures" when a health policy was being issued. This provided financial well-being insurance while enabling people to adhere to social distancing norms and stay at home.

Insurers introduced COVID-19 health insurance plans known as "Corona Kavach and Corona Rakshak" in accordance with the IRDAI's recommendations. These two were created in order to provide low-income individuals with financial security so they could access the best COVID-

¹⁵ THE EVER-GROWING NEED FOR HEALTH INSURANCE POST-PANDEMIC FINANCIALEXPRESS, <https://www.financialexpress.com/money/the-ever-growing-need-for-health-insurance-post-pandemic-2266727/> (last visited Nov 02, 2023)

19 treatment possible.

The regulatory body authorized the payment for telemedicine services in September 2020. This meant that a person could receive an outpatient department consultation while at home, with the consultation's costs paid for by the policy.

3. Standardization of Health Insurance Plan

On October 1, 2020, health insurance policies that had been renovated went on sale and offered customers more coverage. The new plans will help customers because they will cover more illnesses and treatments at reduced prices. The definition of pre-existing diseases "(PED)" has changed in order to satisfy consumer demands and expectations. The new regulations state that PED would apply to any illnesses or conditions that were discovered by a "physician 48 months" before health insurance was granted. IRDAI has instructed the insurers to include permanent exclusions only with the customer's consent in order to ensure that policyholders with PED receive adequate health insurance coverage. In addition, after a policyholder has paid premiums for eight consecutive years, the insurer cannot deny the claim.¹⁶

This suggests that, unless fraud is committed or a permanent exclusion claim is filed, a customer's health insurance claim will not be rejected starting with the ninth policy year. After receiving the most recent pertinent document, a claim has 30 days to be resolved or rejected.¹⁷ The insurer will be required to reimburse the policyholder for interest at a "rate of 2%" over the bank rate from the time the last pertinent document is received until the claim is paid, in the event that the claim payment is delayed.

4. Introducing the option of EMI for premium payment

A modification to the IRDAI has allowed customers to pay their health insurance premiums in installments during the Covid-19 pandemic. The insurer has the option to set the frequency of premium payments, which can be quarterly, half-yearly, or monthly. The modification will significantly increase affordability in the health insurance market.

VIII. CONCLUSION

The health insurance market is expected to expand rapidly in the coming years. The main concern is to guarantee that the underprivileged and vulnerable receive better coverage and health services at lower costs, while also avoiding unfavorable aspects like cost increases and

¹⁶ TOP HEALTH INSURANCE STATISTICS OF 2023 FORBES ADVISOR INDIA, <https://www.forbes.com/advisor/in/health-insurance/health-insurance-statistics/> (last visited Nov 02, 2023)

¹⁷ *ibid.*

improper use of medical procedures and technology.

Due to the increasing health consciousness of the majority of the population “post-pandemic”, economic liberalization, and the emergence of private healthcare funding, India's healthcare system is undergoing a massive transformation.¹⁸ Since India was the country most affected by the Covid-19 pandemic this year, a great deal of reforms were implemented in this industry in 2020 to protect as many people as possible.

All things considered, the insurance industry has a promising future. Numerous modifications to the regulatory framework will impact how the company conducts business and interacts with its clientele.

¹⁸ Supra note 16