



WHITE BLACK
LEGAL
LEGAL

VOLUME 1: ISSUE 10

|| May 2020 ||

Email: editor@whiteblacklegal.co.in

Website: www.whiteblacklegal.co.in

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

– The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published,

White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

EDITORIAL TEAM

EDITOR IN CHIEF

Name - Mr. Varun Agrawal

Consultant || SUMEG FINANCIAL SERVICES PVT.LTD.

Phone - +91-9990670288

Email - whiteblacklegal@gmail.com

EDITOR

Name - Mr. Anand Agrawal

Consultant|| SUMEG FINANCIAL SERVICES PVT.LTD.

EDITOR (HONORARY)

Name - Smt Surbhi Mittal

Manager || PSU

WHITE BLACK
LEGAL

EDITOR(HONORARY)

Name - Mr Praveen Mittal

Consultant || United Health Group MNC

EDITOR

Name - Smt Sweety Jain

Consultant||SUMEG FINANCIAL SERVICES PVT.LTD.

EDITOR

Name - Mr. Siddharth Dhawan

Core Team Member || Legal Education Awareness Foundation

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WHITE BLACK LEGAL: THE LAW JOURNAL

EXPLORATION OF HEALTH INSURANCE IN INDIA

- Kriti Agarwal

ABSTRACT

The constitution of India states the “right to life” to be fundamental and obliges the government to ensure the “right to health” for one and all. India’s health sector is been shaped in such a manner considering federal structure and the federal–state divisions of responsibilities and financing. The governmental health services are made available to all citizens under the tax-financed public system. India’s private health care sector is not properly regulated. The private health care providers deliver an arrangement of outpatient services in solo practices ranging from those not registered with the relevant medical council to trained medical practitioners to small nursing homes and multispecialty clinics. The Indian health system do not promote efficiencies or control costs. It has been studied that most hospital systems across states are inefficient. Due to lack of competition, the public health infrastructure has become costly. The objective of health insurance policy is to strengthen the health systems as needed and sets the priorities for efforts for controlling the disease. The responsibility of the government is to provide primary health care is a part of a large goal to create ‘equity society’ and also this provision stilted in the preamble and outlive principles of the constitution of India. The motive of such contract is to give financial security and protection to the insured from any future uncertainties. The need for health insurance cover is to make the poor understand the benefit attained from it.

**‘EVERY AREA OF TROUBLE GIVES OUT A RAY OF HOPE; AND
THE ONE UNCHANGEABLE CERTAINTY IS THAT NOTHING IS
CERTAIN OR UNCHANGEABLE’**

An insurance contract refers to a document that represents the agreement between an insurance company and the insured. The motive of such contract is to give financial security and protection to the insured from any future uncertainties. The insured should never try to misuse this financial cover i.e seeking benefit by reporting false occurrences violates the terms and conditions of an insurance contract. An insurer should always investigate any doubtful insurance claims. It is necessary for every family to have suitable general insurance covers. Insurances provide designed plans, and people should be encouraged to get them so that the overall condition of medical care insurance in the country can be improved. There are various insurance that are included is- insurance of property against fire, burglary etc, personal insurance such as Accident and Health Insurance, and liability insurance which covers legal liabilities.

Health insurance is stated to be a unique way for securing and protecting the health of people. It helps to provide financial relief and financial securities to a person undergoing medical treatment whether due to a disease or an injury. A great portion of Indian population is found not having health insurance so as to finance their medical expenditure. The people pay from their pockets to meet up the medical expenditure and the uninsured ones with poor health care or have to bear financial hardship. The rise in medical expenditure gives financial burden which does affect the lifestyle of the members in a family. It is necessary to ensure that every individual is insured, medical health care facilities, health insurance company play their role actively. It is good if people would be able to avail quality health care in times of medical emergency.

There are various benefits of having health insurance policy-

- It provides medical security which helps in availing the proper medical treatment without any financial anxiety.
- It helps in giving financial assistance at the time of medical emergency
- It helps in giving a person access to several medical facilities buying the certain products.
- It makes medical checkup easy, as there are several plans that offer routine check up to help the insured stay healthy and get the disease if any diagnosed at the earliest.

There is a link between poverty and ill health which needs to be recognised. High health care costs can lead to entry into poverty. Health care facility should be promoted in context to prevent non-poor getting into poorer zone, and to reduce the sufferings of the people who are below poverty level. In rural areas, there is a challenge of health care facilities which requires necessary attention. The services are provided both in public and private sector but the services of the private sector makes unaffordable for the poor and the underprivileged ones.

In India, the health system is poor due to the low investment. Here, people are more interested in meeting the medical expenditure by their pocket payments rather than getting reduced through their insurance cover.

In India, the need for health insurance cover is to make the poor understand the benefit attained from it and to fulfill the needs to meet few risks-

- Lack of appropriate medical facilities.
- To get the health care facility, there should be proper infrastructural facilities.
- The income of rural people is not regular and this makes difficult for them during medical emergencies.
- The costs of health care system.
- The mortality rate in rural areas is higher.

The usage of health insurance is-

1. Compensation of Medical Expense-

The health insurance is needed to meet the costs of health care facilities. In serious illness, people restrict their hand in expending as the care is expensive so they must make themselves insured and attain the benefit of such coverage at the time of medical emergency. Not only are the financial problems of the insured and his family diminished when health insurance provides the funds out of which to pay the costs of health care but the financial problems of the doctor and hospital are also abated.

2. Income Replacement

The primary function of health insurance is income replacement. For most people, inability to work means ending or reduction of income. Personal and family expenses do not end during disability, and without the means out of which to repay them, the individual and family become a burden on society. Such coverage is important as it keeps the family integrate puts bread on

the table, and maintains a roof over the family's head. The health insurance company has made great progress in improving the disability income benefits.

3. Safeguard of the Insurance Estate

The Health insurance insures other insurance. During emergency, the benefits of the health insurance contract provide the funds out of which life insurance and property insurance may be maintained. The principal sum or accidental death benefit provisions of the health insurance contract that constitutes a kind of life insurance limited to the sudden death of the insured by accidental bodily injuries.

4. Maintenance of Credit

Disability changes the income producer into a large-scale consumer. Recognizing that disability is a principal, the reason for default in the payment of obligations creditors look with great favor on adequate plans of health insurance. The installment loan almost always has to be paid out of earned income.

5. Health Conservation

Many lines of insurance finds their most important contribution in the prevention of the hazard underwritten. Health insurers are conscious of the important of doing all that can be done to abate disability. They encourage their insured and the general public to be safety -conscious and to take timely measures to prevent or cure illness. The preventive services of health insurance will expend only as medical science progress.

The major advantages of health insurance may be enumerated as-

- Assists in securing the future through premiums.
- Payments for medical and hospital bills.
- Helps in saving a lot future financial losses due to costly medical and post treatment expenses.
- Custodial and disability bills.
- Increases sense of security.
- Tax benefits as per Indian Income tax acts section 80D.
- Greater financial security.
- These policies can ever be availed after crossing 60years.

Health insurance is an insurance that helps in meeting the future medical expenditure of the person. It states that anybody who take health insurance plan expects a certain amount of medical expenses to be there in future and that individual is paying for that in the present in the form of premium. The premium aims to make sure that people have take care of their emergency medical requirements when they need it.

In influencing the choices that make for better health and lowered financial burden of ill health, the society is typically faced with **three key challenges**.

The first has to do with controlling the cost incurred in the provision of health interventions that it supports – be it care, health care regulation, or provision of insurance, given that resources are limited and face competing demands for their use.

The second is to achieve an equitable distribution of the financial burden of ill health and morbidity. This is a direct consequence of the fact that societies are concerned not just about improvements in average health but also, especially, about the health and economic welfare of the socially and economically marginal groups in society.

A third issue is to ensure the quality of medical care that is provided, because of its central importance to people who need care, and also because of its direct link to the cost-effectiveness of care provision. Growing at a healthy 30 per cent annually, health insurance continues to be one of the most dynamic sectors. It has been one of the major drivers of growth for delivery of quality healthcare services. However, health insurance sector has still a long way to go and there are several challenges to overcome to extend the reach and scope of insurance coverage.

Health insurance sector must continuously develop and introduce innovative products and pricing, distribution channels which are the key drivers of growth for this sector. The industry must build up robust data repositories, data analytic capabilities and information exchange mechanisms. The insurers must endeavor to achieve true portability and provide cover for wellness services, OPD treatment, pre-existing diseases and senior citizens who need health insurance most.

Health insurance industry loses Rs 700 crore (15 per cent of total claims) every year to fraudulent claims, which the society cannot afford to overlook.

Such insurance fraud and abuse is defined as an act of omission or commission intended to gain dishonest or unlawful advantage by unfair means such as, concealing pre-existing disease or claiming inflated bills. This malpractice destroy the industry as well as insured people since it increases the premium. It is a matter of concern that poses a serious challenge to the growth of health insurance.

There is a tendency by the insured persons to overuse healthcare services, for example, demanding tests not required on medical grounds (demand-side moral hazard), and providers' propensity to provide more services than they would if the individual did not have health insurance (provider-induced moral hazards). This practice can be restricted by insurance and co-payments.

This is a problem of asymmetric information that disturbs the operation of the insurance market, resulting in an inequitable transaction. Members with the low risk are found to drop out. Insurers counter adverse selection through medical underwriting and rate-making process. The NGOs and insurance companies need to reach out to the segment of society to achieve penetration of health insurance. Enact the long pending Insurance Amendment Bill, which seeks to raise FDI cap in the sector from 26 to 49 per cent, which would result in surge of global players and even more customized products targeting all sections of society. Indian hospitals need to be national as well as international accreditation to remain competitive. Penetration of health insurance in India is low. This is the way to maintain accreditation in India's hospital and provide better health services for patients.

The organized sector provides healthcare insurance to only 10 percent of population. There is majority of population that is covered under the health insurance. The penetration of health insurance in India is estimated at around 1 percent only.

The main challenges are for increasing penetration in health insurance sector. The reasons for such penetration of health insurance include low level of innovation in health insurance products, the policy maker and the Indian government. They disappoint from this sector and do not make advantageous policy for the customer, exclusions and administrative procedures governing the policies, and chances of co-variants risks, such as epidemics. The need for greater insurance coverage may be viewed in the context of its potential to create demand for services, while spreading the risks through a pooling mechanism.

The negative perceptions about India especially in rural areas, with regard to public sanitation, hygiene standards, prevalence of contagious diseases in India, quality of healthcare services provided in public sector hospitals, and wastage management practices adopted in India, counter the positive vibes created by the cost competitiveness of Indian healthcare system. The quality of healthcare in a country depends upon various factors are responsible such as access, effectiveness, safety and affordability.

It should be noted that even if hospitals are fully sterile, some infections are air borne. Therefore it is important to focus on in country healthcare to create positive perceptions about India as a

safe healthcare destination. Organ transplantation is a revolution in the medical history as it has helped in saving the lives of those who would have died otherwise.

There are few organs for organ transplant such as Kidney, Liver, heart, lung, pancreas, small bowel. The Human Organs Transplant Act, 1994 has laid down various regulations that have to be followed while conducting the organ transplantation in India. According to the Act, any unrelated donor has to file an affidavit in the court of magistrate stating that the organ is being donated out of affection.

However, it is seen that the developed countries are working towards easier mobility of patients to other countries with payment coverage under the social healthcare systems as also the private insurers are interested in extending the coverage of healthcare expenditure incurred in other countries. When such an opportunity arise, the national governments, as also the private insurers, would look for low cost destinations that have better malpractices law in place. A better malpractice law authorities provide recourse to the patients who develop complications or side effects after they reach the homeland.

The health insurance providers are challenged by the high claims ratio and insufficient or inaccurate data on consumer profile and disease patterns which is proving to be a constraint for product pricing and the development of new products.

Many of the health institutions, particularly the rural ones, continue to focus excessively on immunization and family planning activities, ignoring the curative aspects. Health policy should give due care to the curative aspects along with the preventive aspects.

The government must allocate more of resources for the health sector. There is a need to enhance public investment in health sector and health investment planning must be biased towards under-privileged areas and groups.

Rising number of suicides in the state signify need for more mental health specialists too. The health policy also needs to spell out area-wise prevalence of tropical and other diseases, ensure optimal utilization of health manpower and resources, enhance availability of primary health care/ paramedical staff, set out strategies to cope with rising pressure on tertiary health care institutions and bring about awareness for a better quality of health care comprising environment and occupational health, adequate availability of drinking water, hygienic living conditions, nutritious food, removal of drug addiction and other health hazards.

The good thing is that the health insurance market has been increasing over the years. It has been one of the fastest-growing segments of business in India. The Indian government plays

an important role in running several safety net health insurance programmes for the high-risk population and actively regulates the private insurance markets.

For primary healthcare, the Indian government spends only about 30% of the country's total healthcare budget the need for skilled medical graduates continues to grow, especially in rural areas which fail to attract new graduates because of financial reasons. The government has already taken some liberal measures by allowing foreign direct investment in this area which has been a key driving force behind the growth of Indian pharma. The government acts positively on clearing regulatory hurdles related to the import-export of medical devices, and has set a few standards around clinical trials.

There are various health insurance products that are available in India. The existing health insurance schemes available in India-

1. Voluntary health insurance schemes or private-for-profit schemes
2. Mandatory health insurance schemes or government run schemes (namely ESIS, CGHS)
3. Insurance offered by NGOs/Community based health insurance
4. Employer based schemes

Hence, it can be concluded by stating that health insurance is like a knife. In the doctor's hand it can save the patient, while in the hands of the quack, it can kill. Health insurance will develop rapidly in future. The main challenge is to see that it gives the benefit to the poor and the weak in terms of better coverage and health services at lower costs without negative aspects of cost increase and overuse of procedures and technology in provision of health care.