

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (THIRD PARTY ADMINISTRATORS - HEALTH SERVICES) (AMENDMENT) REGULATIONS, 2019

F. No, IRDAI/Reg/xx/2019 — In exercise of the powers conferred by section 114A(2)(q),(r) and (s) read with section 42D and 42E of the Insurance Act, 1938 (4 of 1938) and sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations, to further amend the Insurance Regulatory and Development Authority of India (Third Party Administrators - Health Services) Regulations, 2016, namely: -

1. **Short title and commencement** — (1) These regulations may be called the Insurance Regulatory and Development Authority of India (Third Party Administrators - Health Services) (Amendment) Regulations, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Insurance Regulatory and Development Authority of India (Third Party Administrators - Health Services) Regulations, 2016,

- a. Clause (f) of sub-regulation (1) of regulation 2 shall be omitted.

- b. For clause (k) of sub-regulation (1) of regulation 2, the following clause shall be substituted, namely:-

“k. “Network Provider” means hospital enlisted by an insurer, a TPA or jointly by an insurer and a TPA to provide medical services to an insured by a cashless facility.”

- c. For clause (m) of sub-regulation (1) of regulation 2, the following clause shall be substituted, namely:-

“m. “Third Party Administrator (TPA)” means a company registered with the Authority, and engaged by an insurer, for a fee or by whatever name called and as may be mentioned in the health services agreement, for providing health services as mentioned under these regulations.”

- d. In clause (e) of sub-regulation (1) of regulation 3, for the words ‘foreign travel’, the words “travel or health or medical insurance” shall be substituted.

- e. After sub-regulation (3) of regulation 3, the following sub-regulations shall be inserted, namely:-

“(4) The policyholder can choose a TPA of their choice from amongst the TPAs engaged by the insurer, where services of TPAs are engaged by the insurer for a given insurance product.

(a) Where the services of the TPA are terminated during the course of health services rendered by the said TPA, every insurer shall allow the policyholder to choose an alternate TPA from amongst the TPAs engaged by it.

(b) The insurer shall explicitly provide the names of the TPAs amongst whom the policyholder may choose the TPA of their choice at the point of sale. The Policyholder may be allowed to change the TPA of their choice only at the point of renewal.

Provided that the policyholder shall have no right to seek dispensing the services of the TPA and request the insurer to undertake rendering the health service directly.

Provided further that the insurer shall have the prerogative of whether or not to engage any TPA or to terminate the services of the TPA or not to engage the services of the TPA for a particular health insurance product or discontinue the services of the TPA to service a particular health insurance product.

Provided further that the insurer shall have the prerogative of changing the TPA in accordance to the provisions of sub-regulation (8) of regulation 20 of these regulations.

(c) Where the Policyholder did not choose any of the TPAs, the insurer may allot the policy servicing to a TPA of its choice.

(d) Where the insurer engages the services of only one TPA, no option need be provided to the policyholder.

Explanation. —For the purposes of this sub-regulation, the choice of the policyholder to choose a TPA for rendering health services is limited to the TPAs with whom the insurer is having Service Level Agreements in place. Based on the health insurance product and geographical location of the policyholders, the insurer may also limit the number of TPAs amongst whom the policyholder may choose a TPA of their choice. The insurer explicitly shall provide the list of the TPAs engaged, from amongst whom the policyholder may choose a TPA of their choice, at the time of proposal or the renewal as the case may be.

(5) The Authority may specify guidelines for disclosure of qualitative and quantitative parameters by all insurers and TPAs with respect to the health services rendered.”

- f. For sub-regulation (1) of regulation 5, the following sub-regulation shall be substituted, namely:-

“(1) No person or an entity can commence or carry out the business of TPA and render health services mentioned at clauses (a) and (b) of sub-regulation (1) of regulation 3 of these regulations without a valid certificate of registration from the Authority.”

- g. For sub-regulation (4) of regulation 5, the following sub-regulation shall be substituted, namely:-

“(4) No insurer shall engage any person or entity to render health services mentioned at clauses (a) and (b) of sub-regulation (1) of regulation 3 of these regulations unless such person or entity is holding a valid certificate of registration from the Authority as TPA.”

h. The heading of regulation 6 shall be substituted, namely:-

”Minimum Capital and Net Worth Requirements”

i. For sub-regulation (3) of regulation 6, the following sub-regulation shall be substituted, namely:-

“(3) The net worth of a TPA shall at no time during the period of registration fall below rupees one crore.

Explanation: For the purposes of these regulations, “net worth” shall have the meaning assigned to it in the Companies Act, 2013 and as amended from time to time.”

j. In sub-regulation (2) of regulation 7, for the words ‘Rupees 20,000/- (Rupees Twenty Thousand only) and applicable service tax’, the words “Rupees 1,00,000/- (Rupees one lakh only) and other taxes as may be applicable” shall be substituted.

k. After clause (j) of sub-regulation (2) of regulation 8, the following clause shall be inserted, namely:-

“(ja) The applicant shall demonstrate the preparedness in respect of adequate technological capabilities, data security and human resources.

(jb) The promoters of the applicant shall have professional competence and general reputation of fairness and integrity to the satisfaction of the Authority.”

l. After sub-regulation (2) of regulation 8, the following sub-regulations shall be inserted, namely:-

“(3) Each of the promoters shall satisfy the following criteria.

a. Must be carrying on business not related to insurance or engaged in offering professional services not related to insurance for a period of not less than three years to the date of application;

b. Have positive net worth in all the immediately preceding three financial years to the date of application; and

c. Have net worth of not less than the respective capital contribution in the immediately preceding two financial years to the date of application;

(4) Where there are one or more investors in an applicant, any investor holding the shares in the applicant exceeding ten percent of the paid up equity capital shall be considered as promoter of the applicant.

(5) Indian investors, other than investors holding more than ten percent referred at sub-regulation 4 of regulation 8 above, put together shall not hold more than twenty-five percent of paid up equity capital of the applicant.

(6) The promoters shall agree to a lock-in period of three years for the funds proposed to be invested in the applicant. The lock-in period of three years shall reckon from the date of granting certificate of registration by the Authority.”

m. In sub-regulation (2) of regulation 9, for the words “Rs. 30,000/- (Rupees Thirty Thousand only) and applicable service tax”, the words “Rs. 2,00,000/- (Rupees two lakh only) and other taxes as may be applicable” shall be substituted.

n. In sub-regulation (3) of regulation 9, after the words “Certificate of Registration by the Authority.”, the following shall be inserted, namely:-

“Where a TPA could not commence the business operations within twelve months as stipulated, it shall, within thirty days before the expiry of twelve months from the date of grant of certificate of registration by the Authority, seek in writing further extension of time substantiating the reasons thereof. The Authority on considering the request may grant a further period of six months to the TPA to commence the business operations.

Provided that where the TPA did not commence the business operations within the period stipulated under this sub-regulation, the Authority shall cancel the certificate of registration and publish the same in its website for information of general public.”

o. For sub-regulation (3) of regulation 10, the following sub-regulation shall be substituted, namely:-

“(3) An applicant or any of the promoters of the applicant against whom an order of refusal for grant of certificate of registration has been passed by the Authority shall not, for a period of one year from such refusal, submit a fresh application to the Authority for grant of certificate of registration as a TPA.”

p. In the para after the second proviso of sub-regulation (3) of regulation 11, before the words “The Chief Executive Officer”, the words “Provided further that” shall be inserted.

- q. In sub-regulation (3) of regulation 15, for the words “Rs.15,000/- (Rupees Fifteen Thousand only) and applicable service tax”, the words “ Rs. 1,50,000/- (Rupees one lakh fifty thousand only) and other taxes as may be applicable” shall be substituted.
- r. For clause (k) of sub-regulation (1) of regulation 16, the following clause shall be substituted, namely:-
“k. The TPA failed to maintain the minimum capital or net worth requirement in accordance with the provisions of regulation 6 of these regulations.”
- s. Clause (d) of sub-regulation (3) of regulation 16, shall be omitted.
- t. After sub-regulation (5) of regulation 16, the following sub-regulation shall be inserted, namely:-
“(6) A TPA against whom an order of revocation or cancellation or denial of the renewal has been passed by the Authority shall not, for a period of two year from the date of such revocation or cancellation or denial, submit a fresh application to the Authority for grant of certificate of registration as a TPA.”
- u. For sub-regulation (6) of regulation 19, the following sub-regulation shall be substituted, namely:-
“(6) Where TPAs maintain files, data and other related information pertaining to the settlement of claims in electronic form, maintenance of the same by the TPAs again in physical form is dispensed with. TPAs shall submit or handover all the files, data and other related information pertaining to the settlement of claims to the respective insurers within 90 days after close of every quarter commencing from April of every financial year and the insurer shall accept the same under acknowledgement.”
- v. Heading of regulation 20 shall be substituted, namely:- **“Health Service Agreements”**
- w. In sub-regulation (2) of regulation 20, for the word ‘remuneration’, the word “fees” shall be substituted.
- x. In clause (c) of sub-regulation (5) of regulation 20, for the word ‘remuneration’, the word “fees” shall be substituted.
- y. In sub-regulation (6) of regulation 20, for the word ‘remuneration’, the word “fees” shall be substituted.
- z. In clause (d) of sub-regulation (9) of regulation 20, for the words ‘Reg. 12 (b) (i) of IRDA (Health Insurance) Regulations, 2013’, the words “sub-regulation (b) of regulation 33 of Insurance Regulatory and Development Authority of India (Health Insurance) Regulations, 2016’ shall be substituted.

aa. In sub-regulation (1) of regulation 22, for the words ‘foreign travel’, the words “travel or health or medical insurance” shall be substituted.

bb. In sub-regulation (2) of regulation 22, for the words ‘foreign travel’, the words “travel or health or medical insurance” shall be substituted.

cc. In Schedule - I of these regulations;

- i. For clause 10, the following clause shall be substituted, namely:-
“10. Regulation 13 (3) and (4): Return on Status of Shareholding Pattern of a TPA Company.”
- ii. For clause 17, the following clause shall be substituted, namely:-
“17. Regulation 19 (8): Schedule of Income or fee received by TPA.”
- iii. For clause 19, the following clause shall be substituted, namely:-
“19. Regulation 19 (10): Format on Claims data.”
- iv. For clause 20, the following clause shall be substituted, namely:-
“20. Regulation 19 (11): Annual certificate in the matter of Net Worth of a TPA Company.”
- v. For clause 22, the following clause shall be substituted, namely:-
“22. Regulation 20 (4): Form for Service Level Agreement Details.”
- vi. For clause 24, the following clause shall be substituted, namely:-
“24. Regulation 22 (4): Periodical Returns – Information on non-insurance health schemes.”
- vii. For clause 26, the following clause shall be substituted, namely:-
“26. Regulation 22 (4): Format of information on services rendered in foreign jurisdictions for policies issued by Indian insurers.”
- viii. For clause 27, the following clause shall be substituted, namely:-
“27. Regulation 22(4): Format on information on health services rendered to policies issued by foreign insurers.”

dd. In Schedule - II of these regulations;

- i. For sub-clause (d) of clause 2, the following sub-clause shall be substituted, namely:-
“d. Bring to the notice of the insurer with whom it has an agreement any adverse report or inconsistencies or any material fact that is relevant for the insurer concerned.”
- ii. In sub-clause (u) of clause 2, for the word ‘remuneration’, the word “fees” shall be substituted.
- iii. In proviso to sub-clause (w) of clause (2), for the words ‘foreign travel’ shall be omitted.
- iv. After sub-clause (jj) of clause (2), the following sub-clauses shall be inserted, namely:-

“kk. Any information or data relating to the group insurance policies of one insurer shall not be shared with any other insurer or any other third

party. For the purpose of underwriting, a TPA, with the explicit written approval of the concerned insurer and the Group Insurance Policyholder, may share information or data to any other insurer.”

“11. A TPA shall not canvass business of rendering health services directly from policyholders or prospects.”