



बीमा विनियामक और विकास प्राधिकरण

**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

ORDER

OF THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

AGAINST

M/s RELIANCE GENERAL INSURANCE COMPANY LIMITED

1. General insurance companies are required to file any general insurance product with the IRDA and obtain its clearance before marketing the product. These clearances are required to be obtained under the 'File and Use' Guidelines issued by the IRDA from time to time in exercise of the power vested in it by the provisions of the Insurance Act 1938 and IRDA Act 1999. These Guidelines were first issued in December 2000, modified in February, 2001 and revised on September 28, 2006.
2. In December 2005, M/s Reliance General Insurance Company Limited, hereinafter referred to as M/s Reliance, had filed their health care product before IRDA under the name "Reliance Health Care Policy" to obtain the necessary clearance of IRDA. In brief, this policy sought to provide insurance cover under various health conditions subject to specified exclusions at a specified range of prices. The 'Reliance Health Care Policy' was cleared by IRDA in February 2006.
3. Subsequently in September 2006, IRDA issued revised Guidelines for 'File and Use' specifying various other procedural and other requirements to be followed by all insurers. These revised Guidelines, like the earlier Guidelines, inter alia required the prior approval of IRDA in case of a change in the name or any of the terms and conditions or an increase in the price of the product.

4. In January 2008 it came to the notice of IRDA that M/s Reliance is selling a product called "Reliance Health Wise Policy" which was neither filed before IRDA nor approved by it. Therefore IRDA vide its email dated January 30, 2008 and letter dated May 5, 2008 required M/s Reliance to clarify whether the Reliance Health Wise Policy was cleared by the IRDA and whether the price at which the Health Wise Policy was being sold was in conformity with the price approved for the Reliance Health Care Policy.

5. In response thereto, M/s Reliance vide its letter No. RGICL/IRDA/451/2008 dated May 16, 2008 stated that:

(a) the Reliance Health Wise Policy was filed as Reliance Health Care Policy in 2006 and was approved by IRDA;

(b) they had introduced this product in the market under the name "Reliance Health Wise Policy";

(c) the product (Reliance Health Wise Policy) was introduced in the market in conformity with the price filed for Reliance Health Care Policy but that subsequently, in 2007, the price was revised taking into account all relevant factors and thereafter marketed at a different price starting from December 1, 2007.

6. Having regard to the facts of the case, IRDA issued a notice dated April 13, 2009 upon M/s Reliance calling upon it to show cause as to why appropriate action in terms of the provisions of the IRDA Act, 1999 and the Insurance Act, 1938 should not be initiated against them.

7. In response thereto, M/s Reliance vide letter no. RGICL/IRDA/28/2009 dated May 7, 2009 sought for a personal hearing in the matter and after due notice, Mr. K.A. Somasekharan, President & CEO of Reliance

General Insurance Company Limited appeared before IRDA for the hearing in the matter on 15th July 2009.

8. During the course of this hearing, the points earlier mentioned in their letter No. RGICL/IRDA/451/2008 dated May 16, 2008 were reiterated.

9. Upon consideration of the facts of the case and the submissions made on behalf of M/s Reliance, in writing and during the course of the personal hearing, it is observed as follows:-

(i) Clauses 4 and 8 of the File and Use Guidelines dated September 28, 2006 of IRDA require the prior approval of IRDA before effecting any change in the name, the price or the terms and conditions of the product.

(ii) It is not disputed by M/s Reliance that the product filed before IRDA for which the prior clearance of IRDA was obtained was indeed styled "Reliance Health Care Policy" and that M/s Reliance introduced into the market, a product styled "Reliance Health Wise Policy".

(iii) In the instant case, undoubtedly there is a clear change in the name of the product, the terms and conditions and the price of the product.

(iv) M/s Reliance have stated that the change of the name effected to their product, without the necessary clearance from IRDA, was due to oversight and have pleaded for being excused on that ground. M/s Reliance have however tried to regain lost ground by arguing that prior to the launch of the product styled "Reliance Health Wise Policy", they had filed the advertisement material and related literature with IRDA and that the IRDA did not raise any objection on the naming of the product at that point of time.

On going through the records, it is confirmed that M/s Reliance had indeed filed the advertisement and other such material with the IRDA. However, it is also noted that while filing the advertisement material, M/s Reliance did not point out that the material relating to Reliance Health Wise Policy was linked to the clearance accorded to Reliance Health Care Policy or that the Reliance Health Care Policy was to be renamed as Reliance Health Wise Policy. The Authority notes that companies are required to file their publicity literature with regard to any of their products with the Authority and that they do so at irregular intervals putting together all advertisement materials in relation to all products and the literature as prepared by them from time to time, which the company might have got approved. The onus of bringing to the notice of the Authority such filings in relation to the product is squarely cast upon the insurance company itself. Clearly the company had specifically failed to draw the attention of the Authority to the change in name.

- (v) For the reasons aforesaid, the IRDA observes that the explanation offered by M/s Reliance is untenable and cannot be accepted in as much as the company is a well articulated company which has been in the business for several years and is staffed by managerial and professional experts who are expected to be quite thorough in all aspects of the insurance business. Companies are expected to observe all the laid down rules, regulations and guidelines in letter and in spirit at all times. The non-observance of the fundamental guideline relating to the naming of a product indicates the casual manner in which this company chooses to operate which has the scope of leading to avoidable confusion in the market. Unless such actions are checked, they are bound to cause unnecessary confusion in the

minds of the policy holders else such deviations could disrupt the smooth regulation of the insurance business in India.

Hence, the Authority holds that M/s Reliance has squarely and unambiguously violated the Clauses 4 and 8 of the IRDA "File and Use" Guidelines dated September 28, 2006.

- (vi) The IRDA has also examined the plea of M/s Reliance that Reliance Health Care Policy and Reliance Health Wise Policy are the same product albeit with different names. The IRDA has examined the original product as filed with the Authority and compared it with the product brochure of Reliance Health Wise. The terms of both these policies differ to some extent e.g. in the definitions of "pre-existing diseases", waiver of the first year exclusion and some other changes in syntax. Clearly the two products are not identical and there are some differences between them although it is noted that the changes effected are in favour of the policy holders.

In view of these circumstances, it is held that even though the products are not identical, it would nevertheless overlook the changes which have been introduced by M/s Reliance without the necessary clearance since such changes are perceived to be in favour of the policy holder.

- (vii) The third issue that arises for the consideration of the Authority is that of change effected to the pricing of the product. Generally, the products filed by the insurance companies with the Authority indicate the price for the insurance cover offered. The clearance by the IRDA includes the clearance of the price. The pricing of a health insurance product is a matrix and the price per lakh of sum insured depends upon the age of entry of the applicant and

the number of members proposed to be covered under the policy. Going on the premise that the age of entry is up to 35 years, for a two member policy for one year and Rs.1 lakh sum insured, it is noted that for the three plans under this product (Reliance Health Care Policy) which were filed, namely, Standard Plan, Silver Plan and Gold Plan, the corresponding premiums are Rs.820, Rs.900 and Rs.999 respectively. Assuming that this product is the same as Reliance Health Wise Policy which was subsequently sold in the market, it is noted that, as furnished by M/s Reliance, the premium for 1 lakh of sum insured for the entry age of up to 35 years and for covering two members for Standard, Silver and Gold Plans is Rs.999 Rs.1170 and Rs.1300 respectively, as of January 2008. These prices are significantly different from the prices filed under Reliance Health Care Policy.

- (viii) In its defence, M/s Reliance has claimed that as per the 'File and Use' Guidelines of 2001, the price increase was permissible by the company based upon a review of the product. This argument is totally untenable in that as per the 'File and Use' Guidelines of 26th February 2001, under the title "New products and revision of existing products", it is clearly mandated that any change to an existing product or related documentation or the terms and rates of an existing product will have to be filed with the Authority. Even in the revised Guidelines for 'File and Use' issued by the Authority in September 2006, no such laxity or freedom on pricing without the approval of the Authority, is allowed to the insurance companies.

Consequently, the Authority holds that M/s Reliance has once again violated Clauses 4 and 8 of File and Use Guidelines dated 28th

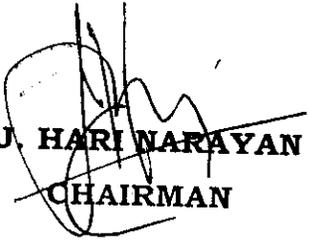
September, 2006 in varying the price of the product to the detriment of the policy holder without seeking the clearance from the IRDA.

10. The above facts clearly show that M/s Reliance General Insurance Company Limited have violated Clauses 4 and 8 of the IRDA "File and Use" Guidelines. These Guidelines have been issued by the Authority under the powers vested in it vide Section 14(2)(i) of the IRDA Act, 1999. The violation by any insurer of any directions issued by the Authority including by way of circulars, guidelines etc would make them liable for penalty as provided for under Section 102(b) of the Insurance Act, 1938. The provisions specified therein inter-alia provide for the levy of penalty not exceeding Rs.5 lakhs for each such violation.
11. The statistics of sale for the year 2007-08 as per the returns filed by M/s Reliance General Insurance Company Limited show that they have sold 3.5 lakh Reliance Health Wise policies. It is the considered view of the Authority that each such policy sold without the necessary clearance of the Authority constitutes an incidence of violation. On the said basis, under the provisions of Section 102(b) of the Insurance Act, 1938, the company would be liable for a penalty not exceeding Rs.17,500 crores.
12. M/s Reliance have however contended that after the IRDA vide letter No. 01/RD/RGICL/H1/RHC/08-09 dated November 5, 2008 brought to their notice the change in the name and premium of their product, the company reverted to the originally cleared rate of 2005 and that the company had refunded Rs.1.07 crores to the various policy holders of this product. This refund is not supported by any documentary evidence. It is further noted from the records that this action was initiated at their end on the insistence of the Authority.

However, the Authority is inclined to accept their contention of having refunded Rs.1.07 crores to the various policy holders of this product on good faith.

13. Having regard to the facts of the case, the view of the Authority on the gravity of the violations and the undertaking of M/s Reliance of having repaid the excess premium collected, on a judicious exercise of the powers and the discretion vested in the Authority under Section 14 of the Insurance Regulatory and Development Authority Act, 1999 read with Section 102(b) of Insurance Act, 1938, a penalty of Rs. 20,00,000/- (Rupees twenty lakhs only) is imposed on M/s Reliance General Insurance Company Limited.
14. The penalty amount shall be paid within a period of 15 days from the date of receipt of this order through a cross demand draft drawn in favour of Insurance Regulatory and Development Authority and payable at Hyderabad which may be sent to Executive Director, Non-Life department at the Insurance Regulatory and Development Authority, 3rd Floor, Parisrama Bhavan, Basheer Bagh, Hyderabad 500 004.

PLACE: HYDERABAD
DATE: JULY 23, 2009


J. HARI NARAYAN
CHAIRMAN