



भारतीय बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY OF INDIA

Ref:IRDAI/HLT/MISC/ORD/016/01/2016

FINAL ORDER

In the matter of M/s The New India Assurance Co. Ltd.

Based on the Notice to Show Cause issued vide letter Ref. No.84/IRDAI/HEALTH/GENERAL/2014-15, dated 29.04.2015, in the matter of a complaint on Mediclaim Policy 2012,

Notice to Show Cause (SCN) dated 29th April, 2015 on observed deviations committed by M/s The New India Assurance Co. Ltd. (the insurer / NIACL) was issued and in deference to the Insurer's request a personal hearing was accorded on 28.07.2015 at 3.00 hrs. at the office of the Insurance Regulatory and Development Authority of India, Hyderabad.

The Insurer was represented by Mr. Segar Sampath Kumar, General Manager and Ms. Tajinder Mukherji, Deputy General Manager. On behalf of the Authority Smt. Yegnapiya Bharath, JD (Health), Mr. D V S Ramesh, Deputy Director (Health), and Mr. K. Rajasimha, OSD (Health Products-2) were present in the personal hearing.

The Insurer had issued "Mediclaim Policy 2012" to one of the Insureds for the period of Insurance 19.11.2013 to 18.11.2014. In the schedule of the said Mediclaim Policy 2012, the words "**– terms as per Mediclaim-96**" were mentioned. A complaint was lodged with the Authority alleging issuance of Mediclaim Policy 2012 with the terms of an unapproved product of Mediclaim 1996 and alleged non-compliance of the product with the Health Insurance Regulations 2013. The matter was also taken up with the insurer on the issues pertaining to "*Mediclaim Policy 2012*".

The submissions made by the Insurer vide their letter HO/Health/2015 dated 09th May, 2015 to the issues raised in the SCN and also those made during the course of the personal hearing were taken into account.

The findings on the explanations offered by the Insurer to the Show Cause Notice and the decisions thereon are as follows.

1. Charge No. 1

"After the Notification of HIR 2013 in February 2013, it is imperative on the part of the Insurer to get the product filed within the timelines and to market only on getting the approval of the said Product from the IRDAI. You have sent an email dated 28th March 2014 enclosing the Mediclaim Insurance policy (1996) seeking UIN for the product. The Insurance Regulatory and Development Authority of India has informed vide its email

dated 05th December 2014 that this product may be treated as deemed withdrawn product". No certificate was filed for UIN, but Mediclaim Insurance Policy 1996 was marketed – Violation of File and Use Guidelines

Reply of the Insurer

In response the insurer submitted that "Mediclaim 1996" was revised as "Mediclaim 2007" and filed for approval with the Authority. While granting the approval vide letter dated 30th April, 2007, the Authority stated that the existing Senior Citizens being the policyholders, shall not be compelled to migrate to the revised product on renewal if it is to their disadvantage and that these instructions were similar to Regulation (5) which stipulates that any migration to the new policy shall not be disadvantageous to the existing customers. Therefore, the insurer considered the instructions issued in 2007 are still relevant.

It was further submitted that this policy was not marketed to any new customer, but, in deference to the Authority's instructions, only renewed to about specific 200 policyholders who opted to continue with the Mediclaim 1996 terms. It was also submitted that the product was not filed before October, 2013 as required in the Regulations, because the company was under the impression that it was not marketed to the public in general.

The Insurer also contended that they did not file earlier because the Mediclaim 1996 was not marketed to any other customer, other than those who had opted in 2007 to retain these terms. The Insurer further submitted that as per its understanding of Regulation 4 (a) refers to sale of the product to prospective customers. The Insurer further contended that this view is also reinforced by Regulation 4(d) (iv).

2. Charge No. 2

As such the company did not file any certificate for UIN, which was required to be certified by the CEO and Appointed Actuary, as required under regulations for Authority's consideration and Mediclaim Insurance Policy 1996 was not filed, but marketed – Violation of Regulation 4(a) of IRDA (Health Insurance) regulations 2013.

Reply of the Insurer

In response the insurer submitted that Mediclaim 1996 was not filed as product was withdrawn and the terms were made available only to a very small group of persons as aforesaid and that an e-mail was forwarded to the Authority enclosing the revised clauses.

DECISION on (1) & (2)

The submissions of the Insurer that the product Mediclaim 1996 is renewed basis the instructions of the Authority and renewing the product is as per its understanding of Regulation (4) (a), Regulation (4) (d) (iv) and Regulation (5) of the IRDA (Health Insurance) Regulations, 2013 is not acceptable. It is clarified that the regulations referred herein, that is, Regulation (4) (a), Regulation (4) (d) (iv) and Regulation (5) are mutually exclusive and shall not be interpreted at the convenience of the Insurer, especially, in the back ground of specific Provisions of



Regulation 18 (a) of IRDA (Health Insurance) Regulations 2013 which states that all the guidelines/clarifications/circulars/letters issued earlier in respect of the health insurance products shall abate from the date the regulations come into force.

Therefore, renewing a policy of the product for which no prior approval of the Authority is obtained is in deviation of Regulation 4(a) of IRDA (Health Insurance) regulations 2013 (HIR, 2013). The Insurer is warned for this deviation.

3. Charge No. 3

Delay in issuance of ID Cards to the policyholder: The Complainant claimed that the ID Cards were not issued in time, in spite of his request for issuance of ID cards within the time frame for the last 2 years.

It is found that ID cards were issued in December 2014 after lapse of considerable time - Violation of Regulation 9(e) of Health Insurance Regulations 2013.

Reply of the Insurer

In response the insurer submitted that the ID Card was issued in 2009 and that the ID Card once issued in the year 2009 is valid as long as the policy is renewed in accordance to Regulation (9) (e) read with Regulation (9) (f) of Health Insurance Regulations, 2013.

In this instance, at the request of the policy holder another card was also issued in December, 2013 and the client also confirmed the receipt of the card in December, 2013 in his e-mail dated 21st March, 2014.

DECISION:

The Insurer's submissions are considered and no charges are pressed.

4. Charge No. 4

The Insurer has submitted a list containing deemed withdrawn product along with other products vide letter dated 27.05.2014 and in no list the name of "Medicclaim Policy 1996" was specified. Non submission of the said product in any of the categories mentioned and renewing the policies after the notification of HIR, 2013 is non compliance with the provision of Regulation 4(a) of Health Insurance Regulations, 2013.

Reply of the Insurer

In response it was submitted by the Insurer that it had applied for UIN for Medicclaim 1996 along with a copy of the Policy compliant with the New Regulations vide email dated 28.03.2014. It was further submitted that in the letter dated 27.05.2014 to the Authority the product was mentioned as "Medicclaim Insurance (Individual)" as the nomenclature for Medicclaim 1996 and was mentioned that the same is complied with HIR 2013 and has been sent to IRDA on 28/03/2014.

DECISION:

The submissions of the insurer that it has forwarded an e-mail dated 28/03/2014 in compliance to HIR, 2013 is not acceptable. When the Authority prescribed the manner of filing such products under certification basis in Regulation (17) (b) of HIR, 2013, forwarding a communication to the Authority bespeaks the casual



approach of the Insurer. Such an approach may potentially lead to gaps, as the Insurers under the pre-text of having communicated to the Authority may continue marketing the products potentially leading to non compliance to the Regulatory prescriptions, in this case, HIR, 2013.

The Authority issued Circular Re: GEN/CIR/018/May-04 dated 24th May, 2004 advising all the insurers that the approval of the Authority should not be taken as implicit with the intimation of a particular approach adopted, unless formal approval is conveyed. Therefore, the Insurer is seriously warned for not complying with the provisions of Regulation (17) (b) referred herein.

Further, by not filing the said product in the manner in which it is envisaged to be filed and by renewing the policies without getting clearance from the Authority, the Insurer has violated Regulation (4) (a) of IRDA (Health Insurance) Regulations, 2013. Therefore, under the powers vested in Section 102 of the Act, the Authority levies a penalty of Rs 5,00,000 on the Insurer. The Insurer is directed to ensure compliance to all the provisions of the Regulations notified by the Authority.

5. Charge No. 5

It was complained that one of your operating offices has quoted approximately half of the premium charged by the Policy issuing Office. In response to this, vide your letter dated 05th February 2015 it was mentioned to the Authority that "lower premium was charged erroneously and the mistake committed by one office cannot be treated as a precedent", which is not a professional way of approach to the same customer by different offices of the same Company.

Reply of the Insurer

The Insurer submitted that the said policy has originally collected the correct premium. However, erroneously a part of the premium was refunded to a policyholder. However, at the time of renewal in March 2015 the correct premium was collected from this policyholder and that there is no intent to charge differential premium for different policyholders and a letter was also written to the concerned policyholder asking him to pay back the amount wrongly refunded to him.

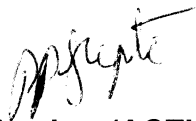
DECISION

Considering the submissions of the insurer no charges are pressed.

The penalty amount of Rs. 5,00,000 (Rs. Five Lacs only), shall be remitted through NEFT/ RTGS (details for which will be communicated separately) within a period of 15 days from the date of receipt of this Order. An intimation of remittance shall be sent to Smt. Yegnapriya Bharath, Joint Director (Health), at the Insurance Regulatory and Development Authority of India, 3rd Floor, Parisrama Bhavanam, Basheerbagh, Hyderabad 500 004.

Place: Hyderabad

Date: 19.01.2016


Member (ACTUARY)